

September 14, 2012

By E-Mail and U.S. Mail

Laurie Walsh
California Regional Water Quality Control Board, San Diego region
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4353

Subject: County of Orange Comments on the Administrative Draft of Tentative Order No. R9-2012-0011, NPDES No. CAS0109266

Dear Ms. Walsh:

We are in receipt of April 9, 2012, *Administrative Draft Order No. R9-2012-0011 NPDES No. CAS0109266 National Pollutant Discharge Eliminations System (NPDES) Permit and Waste Discharge Requirements for Discharges from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds Within the San Diego Region*. The County of Orange, as Principal Permittee of the Orange County Stormwater Program, welcomes the opportunity to provide comments on the Draft Administrative Order that has been prepared, distributed, and discussed by your staff. The south Orange County Permittees (Permittees) were involved in the development of these comments and the cities of Aliso Viejo, Dana Point and Mission Viejo have directed that they be recognized as concurring entities on this letter. We also support the comments of the Permittees in Riverside and San Diego Counties (except where noted in the attachments), who have identified many of the same issues with the Administrative Draft Order.

Since April 9, the Permittees have participated with Board staff in an initial public workshop (April 25), four "focused meetings" (June 27, July 11, July 25 and August 22), a hydromodification workshop (August 30), and a final public workshop (September 5). There have also been two separate Orange County-specific meetings. We recognize the significant efforts of your staff to engage the Permittees and key stakeholders in the initial development of this regional permit in a collaborative manner. While you are already aware of our concerns regarding the scheduling and appropriateness of this effort (see prior correspondence dated May 10, 2012, May 17, 2012 and July 3, 2012, which are incorporated by reference), this approach nonetheless represents a notable departure from prior permit renewal processes. It is hoped that this initial consultative effort is a harbinger for meaningful compromise on issues of concern to the Permittees.

In starting to conceive of a fifth term permit, the Permittees share an understanding that MS4 permitting needs to be informed by the following guiding principles:

1. The ability of the Permittees to direct resources toward specific water quality priorities in a given watershed, rather than all potential problems simultaneously, is more likely to result in actual / meaningful improvements in water quality.
2. The Permittees must be able to truly and fully adaptively manage their programs to focus their resources on those BMP strategies and monitoring efforts that are identified in the approved Water Quality Improvement Plan (WQIP) as being most effective, consistent with the MEP standard, to address each watershed's priorities.
3. The regional permit through the Water Quality Improvement plan (WQIP) should enable the Permittees to specify the jurisdictional and regional BMP strategies and the monitoring efforts that will be implemented to address the watershed's highest priorities, monitor and measure progress, identify and control pollutant sources, etc.
4. Once the WQIP is approved by the Regional Board, each Permittee's implementation of their respective responsibilities as laid out and scheduled within the WQIP, should alone constitute compliance with the regional permit.
5. The Jurisdictional Runoff Management Program (JRMP) is a procedural document that describes how each Permittee will accomplish their WQIP responsibilities.
6. The WQIP (and the BMP strategies and Monitoring and Assessment Plans (MAP) therein), should be updated at least every five years based upon the Report of Waste Discharge (ROWD), and as needed in between. Attachment D shows a conceptual representation of how we see the elements of the Draft Administrative Order working together cohesively, which would suggest structural change is needed to the organization of the Order.
7. The JRMP and monitoring program requirements should be written in the regional permit as a "default menu of options," recognizing that the WQIP - which will be publically vetted and approved by the Regional Board - will specify those jurisdictional and regional activities that will be implemented to address the watershed's priorities, the appropriate frequencies, performance standards, and other compliance elements.

We look forward to continuing to meet with Regional Board staff to discuss the development of the Permittees' next permit based upon these principles. In the meantime, we have summarized our overarching concerns with the Draft Administrative Order as general comments in this letter and provide additional comments and concerns in the following attachments:

- Attachment A presents a tabulation on our technical concerns.
- Attachment B presents a redline/strikeout version of the Draft Order.
- Attachment C presents a set of principles regarding monitoring.

- Attachment D presents a conceptual representation of how we see the elements of the Draft Administrative Order working together cohesively.

General Comments

I. MS4 Permitting

In 2009, your staff committed in the last permit renewal to look at consistency with the State's other MS4 permits, notably those being promulgated by the Santa Ana and Los Angeles Regional Boards. This commitment represented recognition of the Little Hoover Commission's highlighting of the lack of consistency in MS4 permits as a critical area of concern and consideration of the regulated communities and USEPA's interest in seeing greater permitting consistency. Nonetheless, while Regional Board staff has stated that the Draft Administrative Order is meant to be a modest incremental update of the current south Orange County permit, it nevertheless escalates the regulatory requirements in many key areas, creates greater variance with the north Orange County permit, and appears to represent a singular rather than statewide vision of the future of MS4 permitting.

To the extent that the Draft Administrative Order may ease the regulatory burden for your staff, there will be a commensurate increase in burden for the local governments that are dealing with multiple Regional Board jurisdictions if permitting in California continues to be defined by divergent rather than convergent approaches. It is therefore necessary for us to seek revisions to the Draft Administrative Order and an enrollment schedule supportive of a more cogent alignment of our countywide program. This consistency is important to the credibility of our respective efforts to manage urban runoff and is vital to sustaining the obvious cost effectiveness of a coordinated countywide program in Orange County with promising synergies in other regions at a time of widespread economic distress for many communities.

It should also be noted that the Draft Administrative Order provides no consideration at all for the five Permittees whose jurisdictional area is regulated under separate permits from the Santa Ana and San Diego Regional Boards.

II. Planning

Since 1993, the Drainage Area Management Plan (DAMP) has provided policy and programmatic guidance to each Permittee in the development of its DAMP/Local Implementation Plan that describes how stormwater management actions will be implemented on a jurisdictional basis (equivalent to the JRMP). It also includes Watershed Workplans (previously Watershed Action Plans) for each of the south Orange County watersheds. Concurrently, the annual progress report has developed into a systematic assessment of program effectiveness at jurisdictional, watershed, and countywide levels of resolution, using California Stormwater Quality Association program effectiveness assessment guidance and a comprehensive environmental quality dataset.

In 2009, it appeared that the DAMP was in danger of being dismissed as inconsequential "procedural correspondence." Consequently, the renewed importance of effective adaptive

management to be described in a policy and program guidance document, i.e., the Water Quality Improvement Plan (WQIP), is welcomed by the Permittees. The attached redline/strikeout version of the Draft Administrative Order provides a number of suggested revisions related to this provision intended to more fully develop this planning process both as a robust basis for compliance and as a basis for ensuring meaningful water quality outcomes. However, the revisions do not address the separation of the planning and reporting processes that is a consequence of the current structure of the Draft Administrative Order. The Permittees believe that such structural adjustments need to be made in Draft Administrative Order to realize the full potential of the WQIP-JRMP alignment and planning and reporting process. See again attached Attachment D.

III. New Requirements for Land Development

The history of MS4 permitting has largely been defined by a focus on land development. In 2009, MS4 programs on a statewide basis started to transition requirements for land development from "treat and release" runoff management to onsite retention, a new emphasis on Low Impact Development (LID), and hydromodification. In 2012, while there is perhaps recognition of an emerging paradigm that the future management of urban landscapes should be based upon the principal of seeking to restore of natural hydrologic processes, there is absolutely no clear consensus on how and where this approach should be effected.

The attached comments are intended to shift the land development program toward an approach based upon nationally accepted LID principles, recognize the uncertainties and need for greater flexibility in hydromodification requirements, and offer a mitigative approach to urban land development that will produce meaningful environmental outcomes. Our revisions would recognize biofiltration as a LID BMP; ensure that the significantly more challenging requirements related to hydromodification are not imposed for discharges to channels that are engineered, concrete lined, significantly hardened, and/or are regularly maintained as part of a regional flood control program; and incorporate USEPA green street guidance to provide greater flexibility for land-constrained street, road, and highway projects consistent with other adopted MS4 permits in the State.

IV. Monitoring

The Permittees consider it axiomatic that the purpose of environmental monitoring is to inform and support decisions regarding the management, protection, and improvement of Orange County's surface water resources. During the focused meetings your staff explicitly encouraged submittal of alternate monitoring proposals that might better support the WQIP management approach. We have been party to the San Diego Permittees' efforts to define an alternative monitoring approach in response to this request and, indeed, concur with many elements of their proposal. However, we do not believe that this proposal represents a model for the permit that would be appropriate for Orange County. Instead, we believe that the WQIP management approach would be best served by permit requirements for monitoring that establish the principles and review criteria for a monitoring program that is reviewed and approved as an integral component of the WQIP. These principles should substitute for the Draft

Administrative Order's prescription in this area. Our recommendation regarding these principles is provided in Attachment C.

V. Technical Justification

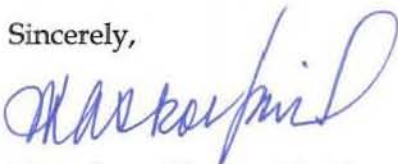
To the extent that the Draft Administrative Order seeks to prescribe any requirements that escalate the future compliance obligations beyond the Permittees' current MS4 Permit, such requirements need to be supported by a rigorous technical justification. The Permittees are concerned that the Fact Sheet, which is the document for establishing the technical rationale for the regulations, has not been made available and appears to be on a schedule to follow rather precede the Tentative Order. At the same time the Report of Waste Discharge (ROWD), which represents the opportunity of the Permittees to consider and apply experiential knowledge is being made largely irrelevant by the regional permit approach. The Permittees believe that the integrity and credibility of the MS4 permitting process risks being compromised by the sidelining of the Fact Sheet and ROWD documents. These potentially significant shortcomings would be addressed by your staff releasing a Fact Sheet for review and comment in advance of the release of the Tentative Order and a re-crafting of the enrollment process to re-establish the role of the ROWD.

VI. Compliance

In responding to your staff's requests for comments on the Draft Administrative Order, the focus has been on providing technical comments intended to assist development of a MS4 permit that will support the Orange County Stormwater Program's continued progress toward our mutual goals based upon a robust and achievable basis for maintaining compliance centered on the WQIP. However, establishing the WQIP as the fundamental basis of compliance has tremendous legal significance. The Permittees believe that the Ninth Circuit Court of Appeals decision in the case of Natural Resources Defense Council vs. Los Angeles County Flood Control District will create an unavoidable situation of non-compliance unless the Receiving Water Limitations language is revised. The importance of making the revisions as shown in Attachment B cannot be overstated and its focus as a State Board workshop in November highlights this.

Thank you for your attention to our comments. Please contact me directly if you have any questions. For technical questions, please contact Chris Crompton at (714) 955-0630 or Richard Boon at (714) 955-0670.

Sincerely,



Mary Anne Skorpanich, Manager
OC Watersheds

Attachments: A - Technical Concerns
B - Redline Version of the Draft Administrative Order

C - Monitoring Principles
D - Proposed Regional Permit Structure

Cc: David Gibson, San Diego Regional Board
Tony Felix, San Diego Regional Board
South Orange County Permittees
Orange County Technical Advisory Committee
Kevin Onuma, Orange County Flood Control District
County of San Diego
Riverside County Flood Control and Water Conservation District
City of San Diego

ORANGE COUNTY PERMITTEES
ATTACHMENT A
SUMMARY TABLE OF COMMENTS

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
1	General Comments	N/A	Throughout	<p>The term “prohibit” is broader than the Clean Water Act requirements, and should be changed to “effectively prohibit.” CWA section 402(p) (3) (B) (ii) reads as follows:</p> <p style="padding-left: 40px;">(B) Municipal Discharge – Permits for discharges from municipal storm sewers – (ii) shall include a requirement to <u>effectively prohibit</u> non-stormwater discharges into the storm sewer; (<u>Emphasis</u> added)</p> <p>The permit shall “effectively prohibit non-stormwater discharges” but may exempt certain discharges that are not significant sources of pollutants from the prohibition. The section does not require a <u>full</u> prohibition but rather an <u>effective</u> prohibition. The operative word is “effective”, which recognizes the constraints of owning and operating a stormwater drainage system, which includes hundreds of miles of open channel. The finding/provision should note that non-stormwater discharges are effectively prohibited (per 402(p)(3)(B)(ii)).</p> <p>In addition, discharges that are not significant sources of pollutants are exempted from the prohibition. In a practical sense, the use of word “effective” also provides flexibility to assess the impacts of relatively benign discharges such as landscape irrigation, air condition condensate, individual car washing, and non-emergency fire-fighting flows or non-anthropogenic sources before instituting a prohibition.</p>	<p>Revise language throughout the Permit to read as follows:</p> <p>Change “prohibit” to “effectively prohibit.”</p>
2	General	N/A	Throughout	Language similar to that which is deleted in the	Revise language throughout the Permit to read

¹ Refers to the page numbers of the original Administrative Draft issued by the Regional Board on April 9, 2012

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	Comments			proposed changes is in several sections of the Admin Draft. This language provides an overly broad interpretation of the stormwater regulations.	as follows: “The goal of this provision is to <u>address the impacts of MS4 discharges so that such discharges do not impair</u> protect, preserve, enhance, and restore the water quality and designated beneficial uses of waters of the state.”
3	General Comments	1-2	Cover Pages	The Copermittees request clarification that waste discharge requirements are for their respective jurisdictions, in order to limit the entire permit to within each Copermittee’s jurisdictional boundaries and preempt any such clauses that would extend requirements beyond the Copermittee’s jurisdiction.	As shown in the attached revised Permit, revise the cover page as follows: “The San Diego County Copermittees in Table 1a are subject to waste discharge requirements <u>within their respective jurisdictions</u> as set forth in this Order” This change is also requested for other sections of the Permit, including Provision A. Add the same language for Orange and Riverside County Copermittees.
4	General Comments	N/A	Throughout	Jurisdictional boundaries only partially define the geographic extent of areas where Copermittees can control, reduce, or prohibit stormwater pollutants. The other component that must be incorporated into the Permit language is ownership/operation. There can be multiple MS4s within a municipal boundary (e.g., Phase 2 MS4s), and some MS4 areas are neither owned nor operated by Copermittees, preventing them from controlling pollutants or flows. The Permit should clarify that Permit requirements apply to MS4s owned and operated by the Copermittees. Other MS4 permits in California, including the Los Angeles County MS4 permit, include the “owned and operated” distinction.	Clarify/Make distinction between different MS4 classifications: Throughout the Permit replace “MS4s” with “MS4s owned and operated by the Copermittee”.

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I. FINDINGS					
5		1	Finding 4	Minor edit change	As shown in the attached revised Permit, revise the language as follows: Delete space from “in to” to “into”.
6		2	Finding 7	The interpretation of the Federal regulations is overly broad. The suggested deletion narrows the applicability of this Finding.	As shown in the attached revised Permit, revise the language as follows: The federal regulations [40 CFR 122.26(d)(2)(iv)(B)] require the Copermittees to have a program to <u>effectively prohibit</u> prevent all types of non-stormwater discharges, or illicit discharges, from entering the MS4.
7		2	Finding 9	Discharges may contain waste or pollutants, but it should not be presumed that they necessarily always contain waste or pollutants.	As shown in the attached revised Permit, revise the language as follows: “Discharges from the MS4s <u>may</u> contain waste, as defined in the CWC, and pollutants that adversely affect the quality of the waters of the state. A discharge from an MS4 is a “discharge of pollutants from a point source” into waters of the U.S. as defined in the CWA. Storm water and non-storm water discharges from the MS4s <u>may</u> contain pollutants that cause or threaten to cause a violation of surface water quality standards, as outlined in the Basin Plan.”
8		4	Finding 16	Although the Permittees do not agree with the Regional Board’s Finding that the MEP technology-based standard does not apply to non-stormwater discharges, the Permittees are, at a minimum, recommending the proposed change to the existing language.	As shown in the attached revised Permit, revise the language as follows: “Non-storm water discharges from <u>into</u> the MS4s are not considered storm water discharges and therefore are not subject to the MEP...”

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9		8	Finding 33	The Copermittees reserve the right to submit additional comments on the Fact Sheet and/or on Provisions of the Tentative Order based on the information that is provided in the Fact Sheet when it is made available for review. To date the Fact Sheet has not been provided to the Copermittees for review.	N/A
II. PROVISIONS					
A. Prohibitions and Limitations					
10	A	9	Prohibitions and Limitations	The proposed Prohibitions and Limitation provisions may be construed as standalone provisions that could expose the Copermittees to state and federal enforcement actions, as well as to third party actions under the federal Clean Water Act's citizen suit provisions. Consistent with the recent 9 th Circuit Court of Appeal decision, each provision of the permit could be read separately so if provision A.2.a states that "the MS4 must not cause or contribute to a violations of a water quality standard" then that is the stand-alone provision, and the accompanying language found in A.4 (Compliance with Discharge Prohibitions) regarding compliance may be considered irrelevant. As such, a clear linkage between the compliance provisions and the prohibitions, receiving water limitations, and effluent limitations must be established.	<p>As shown in the attached revised Permit, insert the following sentence at the end of the introductory paragraph of Provision A:</p> <p>"The process for determining compliance with the Discharge Prohibitions (A.1), Receiving Water Limitations (A.2), and Effluent Limitations (A.3, including effluent limitations derived from the TMDL requirements – Attachment E) is defined in Provision A.4."</p> <p>In this manner, Provisions A.1, A.2, and A.3 are clearly linked to A.4, as opposed to being standalone provisions.</p>
11	A.1.a	9	Discharge Prohibitions	The Discharge Prohibitions do not establish a sufficient linkage with approved compliance schedules for TMDLs that have been incorporated into the Basin Plan. TMDLs adopted within the region include a schedule to provide MS4 Permittees the time necessary to develop and implement a plan to achieve water quality standards in impaired waters. The compliance schedules for effective TMDLs have been incorporated into Attachment E and language is included in the RWLs provisions (A.2.c.) and the Effluent Limitations	<p>As shown in the attached revised Permit:</p> <p>Revise 1.a. as follows: "Except as otherwise permitted herein, Discharges into and fromMS4s, <u>owned and operated by a Copermittee</u>, in a manner causing, or threatening to cause, a condition of pollution, contamination, or nuisance in receiving waters of the state are prohibited."</p>

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				provisions (A.3.b.) pointing to the TMDL compliance schedules.	
12	A.1.d	9	Discharge Prohibitions	The first sentence seems to conflict with the remainder of the paragraph and may create a conflict with the State Water Board's policy if not clarified. The revised language clarifies authorized and unauthorized discharges to the ASBS and limits the jurisdiction.	<p>As shown in the attached revised Permit, revise the language as follows:</p> <p>“Discharges from MS4s to ASBS are prohibited unless specifically authorized. Stormwater discharges from the City of San Diego's MS4 to the San Diego Marine Life Refuge in La Jolla, and the City of Laguna Beach's MS4 to the Heisler Park ASBS are authorized under this Order subject to the Special Protections contained in Attachment B to State Water Board Resolution No. 2012-0012 applicable to these discharges, included in Attachment A to this Order. All other discharges from MS4s to ASBS are prohibited, unless authorized by a subsequent order.”</p>
13	A.2.a, A.2.c	9-10	Receiving Water Limitations	<p>Without modification to the RWLs, they conflict with TMDL compliance schedules. Language should be included to clarify that in instances where a TMDL is ineffective, the Copermittees shall achieve compliance with these provisions as outlined in Attachment E (Specific Provisions for Total Maximum Daily Loads).</p> <p>Without the requested change, the RWLs put the municipalities in immediate and ongoing non-compliance with the permit, as opposed to incorporating TMDL implementation schedules.</p>	<p>To provide a more direct tie in between Provision A.2.a, TMDL compliance schedules, and A.4 the following language is proposed, as shown in the attached revised Permit.</p> <p>Revise A.2.a by adding the following onto the end of the provision: “...the list below to the extent they remain in effect and are operative, unless such discharges are being addressed by the Copermittee(s) through the processes set forth in this Order (including Provision A.4 below and Attachment E, the TMDL Provisions):.”</p> <p>As shown in the attached revised Permit, delete 2.c.</p>

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14	A.2.a.3.b	10	Receiving Water Limitations	The Sediment Quality Control Plan applies specifically to bays and estuaries and only subtidal surficial sediments that have been deposited or emplaced seaward of the intertidal zone. Many Copermittees do not discharge to the intertidal zone. Text should be revised to clarify that this does not apply to inland MS4 discharges.	As shown in the attached revised Permit, revise A.2.a.3.b as follows: “Sediment Quality Control Plan which includes the following narrative objectives <u>for bays and estuaries:</u> ”
15	A.2.a.4.b. Footnote 3	10	Receiving Water Limitations	Footnote to A.2.a.4.b requires Copermittees to not cause or contribute to the more stringent of a water quality objective or a CTR criterion. Instances may exist where it has been determined that one or the other is more appropriate given site specific conditions or analysis (i.e., a TMDL has been established).	As shown in the attached revised Permit, attach the following to the end of footnote 3: “unless a previous regulatory action (i.e., TMDL) has specified otherwise.”
16	A.3	10	Effluent Limitations	Two types of effluent limitations, technology-based and water quality-based, are described in A.3, which should be reflected in the Permit.	As shown in the attached revised Permit, revise subsections (a) and (b) for Technology-based and Water Quality-based Effluent Limitations, respectively. a. Technology and Water Quality Based Effluent Limitations (including Effluent Limitations based on TMDLs). Each Copermittee shall reduce pollutants in discharges from the MS4 to the maximum extent practicable (MEP ²). b. It is understood that compliance with this requirement will be achieved through the use of MEP-compliance best management practices (BMPs) or other controls that are

² This does not apply to MS4 discharges which receive subsequent treatment to reduce pollutants in storm water discharges to the MEP prior to entering receiving waters (e.g., low flow diversions to the sanitary sewer).Runoff treatment must occur prior to the discharge of runoff into receiving waters per Finding **Error!**
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COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
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					consistent with the MEP standard.
17	A.3	10	Effluent Limitations	The water quality-based effluent limitations and compliance with the limitations should be linked to Attachment E; currently the language reads in a manner that is standalone from Attachment E. Instead, the language should reference Attachment E and the compliance determination language the Copermittees propose for inclusion therein.	As shown in the attached revised Permit, revised the WQBEL language in A.3 as follows to better reflect the role of Attachment E: “This Order establishes WQBELs consistent with the assumptions and requirements of all available TMDL waste load allocations assigned to discharges from the respective MS4s. Each Copermittee shall comply with applicable WQBELs as set forth in Attachment E to this Order, pursuant to the applicable TMDL compliance schedules.”
18	A.4	11	Compliance with Discharge Prohibitions and Receiving Water Limitations	Language in Provision A.4 should be consistent with the CASQA proposed receiving water limitation language (also attached).	As shown in the attached revised Permit, please modify A.4.
19	A.4	12	Compliance with Discharge Prohibition and Receiving Water Limitations Compliance with Discharge Prohibitions, Receiving Water Limitations, and Effluent Limitations (Title Revision)	The Copermittees envision WQIPs as the foundation for a BMP-based compliance approach for the Discharge Prohibitions and RWLs. However, the language in the Provision A.4 describes the WQIPs as a document trail rather than a compliance mechanism. In essence, the language suggests that Copermittees shall expend significant resources to develop and implement WQIPs, but taking the actions in the WQIPs has no effect on the Regional Board’s compliance determination. The iterative process is a fundamental aspect of MS4 programs, as envisioned by State Water Board Order 99-05 and later reconfirmed in Order WQ 2001-15 (BIA Order), and is the mechanism by which MS4 Permittees should <u>demonstrate</u> compliance. The WQIPs	As shown in the attached revised Permit, modify the opening paragraph to A.4 to reflect the 99-05 order, using the WQIP in place of the SWMP, as follows: 1. Change the title of the section and first sentence in A.4 to also include effluent limitations (A.3) 2. Add the following language to the end of the paragraph: “The Water Quality Improvement Plans described in Provision B shall be designed to achieve compliance to the MEP standard with the discharge prohibitions, receiving water limitations, and all effluent limitations. If the Executive Officer

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				now provide a mechanism to provide the detail and quantitative analyses used to identify pollutant sources and implement BMPs to address those sources.	approves a Water Quality Improvement Plan and subsequent updates as described in Provision B and F.1, and the plan is being implemented in a timely and good faith manner, such implementation of the plan shall constitute compliance with Provisions A.1, A.2, and A.3.”
20	A.4	11	Compliance with Discharge Prohibition and Receiving Water Limitations	<p>The WQIPs are intended to focus on water quality priorities. Pollutants addressed by existing TMDLs or are exceeding frequently such that a TMDL may be warranted are clearly high priority. However, pollutants that intermittently exceed a WQO or exceed once during a permit term appear to result in violations of the RWL provisions and will require Copermittees to expend resources in line with pollutants that have been identified as a priority.</p> <p>Provision A.4 describes the iterative process for MS4s to respond to exceedances of water quality standards that persist. However, the language in A.4 appears too broad and suggests the Copermittees should revise their WQIPs even in cases when (1) TMDL pollutant WLAs are exceeded but the TMDL compliance date has not yet occurred and (2) non-TMDL pollutant RWLs are exceeded and the pollutant is a WQIP priority but the BMP implementation schedule described in the WQIP has not yet been exhausted. In these two cases, the water quality standards exceedances are “expected” and no WQIP update is needed; instead the Copermittees should simply complete the implementation of actions identified in the WQIP.</p>	<p>As shown in the attached revised Permit, revise the language as follows:</p> <p>Revise the approach to determining compliance with the RWL provisions such that the primary focus of WQIPs is on priorities rather than random and infrequent exceedances of WQO.</p> <p>See also the language added to the introduction to Provision B.</p> <p>“The Water Quality Improvement Plans described in Provision B shall be designed to achieve compliance to the MEP standard with the discharge prohibitions, receiving water limitations, and all effluent limitations.”</p>
B. Water Quality Improvement Plans					
21	B	13	Water Quality Improvement	Although Board staff have indicated that the WQIPs, once developed and approved, will functionally replace the CLRPs and BLRPs, the permit does not formally	As shown in the attached revised Permit, revise the language as follows and add footnote 5:

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
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			Plans	recognize this. This footnote would clarify that this is the case.	“Once developed and approved, the Water Quality Improvement Plan and corresponding Jurisdictional Runoff Management Plans will functionally replace the Load Reduction Plans.”
22	B	13	Water Quality Improvement Plans	The Copermittes request a revision to the WQIP goal statement. A concise goal statement that is more central to MS4 permitting is requested. This goal statement provides context to several requested revisions to subsequent provisions.	<p>As shown in the attached revised Permit, revise the second sentence of the first paragraph of Provision B as follows:</p> <p>“The goal of the Water Quality Improvement Plan is to <u>1) effectively prohibit non-storm water discharges into the MS4s, 2) reduce pollutants in storm water discharges from the MS4s to the MEP, and 3) attain the reasonable protection, preservation, and enhancement and restoration of water quality and designated beneficial uses of waters of the state.</u>”</p>
23	B	13	Water Quality Improvement Plans	The County envisions the WQIPs as the foundation for a BMP-based compliance approach for the Discharge Prohibitions and RWLs. However, language is needs to be added to Provision B to provide a clear linkage between Provision A and B.	<p>As shown in the attached revised Permit, insert the following in the first paragraph of Provision B, after the second sentence:</p> <p>“<u>Therefore, implementation of the WQIPs also provides the basis for complying with Provisions II.A.1, II.A.2, and II.A.3, as described in Provision II.A.4.</u>”</p>
24	B	13	Water Quality Improvement Plans	Additional language should be added to clarify that Provision E requirements may be modified for consistency with Water Quality Improvements Plans.	<p>As shown in the attached revised Permit, insert the following at the end of the first paragraph of Provision B:</p> <p>“<u>As such, the requirements outlined in Provision E may be modified for consistency with the Water Quality Improvement Plan for the applicable Watershed Management Area, if appropriate justification is provided.</u>”</p>

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Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
					<p>Insert the following language at the beginning of the second paragraph:</p> <p><u>“Development of the Water Quality Improvement Plans allows permittees to customize the requirements in Provision E to address the highest watershed priorities.”</u></p>
25	B	13	Water Quality Improvement Plans	<p>Similarly, the Copermittees request revisions to the required/critical elements of the WQIPs. These elements reflect several requested revisions to the WQIP process (e.g., B.2), described below.</p>	<p>As shown in the attached revised Permit, revise the second paragraph of Provision B as follows:</p> <p>The Copermittees must develop Water Quality Improvement Plans <u>for each Watershed Management Area</u> that 1) <u>prioritize water quality issues-conditions</u> resulting from <u>the Copermittee’s MS4 discharges to and from the MS4s</u> within each Watershed Management Area, 2) identify <u>MS4 pollutant sources and other stressors</u> associated with those the water quality priorities, 3) define numeric targets goals and schedules to <u>achieve improvement of</u> address water quality priorities, 4) describe water quality improvement strategies to achieve numeric targets goals, and 5) <u>develop and execute a coordinated monitoring and assessment program to facilitate adaptive management of the Water Quality Improvement Plans</u> and determine progress towards achieving improved water quality <u>those goals</u>.</p>
26	B	13	Water Quality Improvement Plans	<p>It is unclear whether the 12-month timeline identified in the third paragraph of Provision B applies to the development of the WQIP or the implementation of the BMPs identified in the WQIP. It would appear that the</p>	<p>As shown in the attached revised Permit, revise the last introductory paragraph of Provision B, as follows:</p> <p>“The Copermittees must submit Water Quality</p>

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
				provision requires that the MS4s must <i>implement</i> all the requirements (including BMPs) of Provision B within 12 months of permit adoption.	Improvement Plans for public review and Regional Board Executive Officer review and approval per the schedule outline in Provision II.B.0. “
27	B	13	Water Quality Improvement Plans	The development of a WQIP will require at a minimum of 18 months and BMP implementation will likely be staggered over a certain time frame. Once the permit is adopted, Copermittees will begin the planning process. However, Copermittees must have at least one full fiscal year budgeting cycle within which to seek additional funding to implement the WQIP from our governing bodies (i.e., City councils and County supervisors). Thus the more reasonable time schedule is to require the development of the WQIP within 18 months and the implementations of the BMPs to occur consistent with the final approved WQIP.	<p>See the proposed changes to the last paragraph of the opening section of Provision B in the attached revised Permit.</p> <p>A staggered approach to WQIP development is proposed, as detailed in a proposed section B.6. This staggered approach ensures rapid progress on WQIP development while providing a feasible WQIP submittal and initiation schedule:</p> <ol style="list-style-type: none"> 1. The WQIP priorities and numeric goals are presented to the Regional Board within 6 months of the adopted Order. (B.6.a) 2. The complete WQIPs and corresponding jurisdiction measures are submitted 12 months later. (B.6.b) 3. WQIP implementation is initiated at the beginning of the next fiscal year. (B.6.b)
28	B.1	13-14	Watershed Management Areas	Several changes to Table B-1 are requested. The Copermittees request addition of a tenth WMA, for Mission Bay which is entirely in the jurisdiction of the City of San Diego. Furthermore, the City of Poway is not a responsible Copermittee for San Diego River. City of Escondido is not a responsible Copermittee for San Luis Rey River. Finally, the waterbody Loma Alta Slough should be listed under the Carlsbad WMA. Penasquitos WMA includes Miramar Reservoir HA and Poway HA.	<p>Make the following changes to Table B-1, per the attached revised Permit:</p> <ol style="list-style-type: none"> 1. Add a WMA for Mission Bay which includes Scripps HA, Miramar HA, and Tecolote HA. 2. Remove Penasquitos HA and Mission Bay HA from Penasquitos WMA and insert Miramar Reservoir HA and Poway HA. 3. Remove City of Poway from San Diego River 4. Remove City of Escondido from San Luis Rey River.

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
					5. Add the waterbody "Loma Alta Slough" to the Carlsbad WMA.
29	B.2	15-18	Identification of Water Quality Priorities	The Copermittees have fully embraced the concept of WQIPs and appreciate the Regional Board's approach to identifying priorities, setting goals, and developing a strategy and schedule to meet those goals. The Copermittees have identified an alternative to Provision B.2, which follows the general approach proposed by the Regional Board but increases focus on addressing MS4 impacts.	<p>The following changes are requested, as detailed in the attached revised Permit section B and further described in subsequent comments:</p> <ol style="list-style-type: none"> 1. Revisions are proposed to section B.2.a to refine the purpose and add considerations for assessing receiving water conditions. 2. A new section B.2.b is proposed to provide a linkage between receiving water conditions and corresponding impacts from the MS4s (versus other sources). 3. Section B.2.c is expanded to describe the considerations when identifying priority receiving water conditions. 4. Section B.2.d is refined to focus on MS4 impacts and pollutant generating activities. 5. Section B.2.e is refined to elucidate the meaning of numeric goals and their implication for MS4 compliance. 6. The schedule component of B.2.e is moved to a new section B.6 to improve organization of WQIP concepts.
30	B.2.a	15-16	Assessment of Receiving Water Conditions	The assessment of receiving water conditions is a critical first step to WQIP development. Changes to purpose of this step are proposed, to focus on water quality issues related to MS4s. Further, data quality and relevance are critical to this assessment, and requirement to consider "all available data" should be refined to address accessibility and quality control issues. Finally, whether a receiving water condition can be achieved and maintained should be assessed.	<p>As shown in the attached revised Permit, the following changes/revisions were made in Permit section B.2.a:</p> <p>Revise the opening paragraph: "The Copermittees must consider the following, at a minimum, to support the identification of water quality priorities based on the impacts of MS4 discharges on receiving water beneficial uses:"</p>

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
					<p>Under part (7): replace “All available data” with “Available, relevant, and appropriately collected...data meeting appropriate QA/QC standards”</p> <p>Insert a new part (10): “The potential for long-term achievement and maintenance of beneficial use attainment in the Watershed Management Area.”</p>
31	*Language Addition* B.2.b	Not in original (Add at: 17-18)	Assessment of MS4 Discharge Quality and Impacts	For WQIP development, it is critical to differentiate between receiving water conditions and MS4 discharges and impacts. Many receiving water conditions are not driven by MS4 impacts, and Copermittees can have the greatest effect on receiving water quality by focusing on reduction of pollutants discharged by their MS4s.	<p>As shown in the attached revised Permit, add a new section B.2.b titled “Assessment of MS4 Discharge Quality and Impacts”, as follows:</p> <p>“To support the identification of priorities based on the impacts of MS4 discharges on receiving water beneficial uses, the Copermittees must review appropriately collected MS4 discharge quality data and consider the extent to which MS4s cause or contribute to the adverse impacts to receiving water beneficial uses identified in II.B.2.a. Considerations include:</p> <ol style="list-style-type: none"> (1) Locations of the Copermittees’ MS4 discharges with respect to receiving waters; (2) MS4 discharge quality results relevant to impacts in receiving waters and action levels, including the temporal and geographic variation of the results; (3) The requirements of Provisions II.A.1 and II.A.3.; and (4) Whether MS4 discharge quality is sufficiently well known or other information is available to assess whether MS4 discharges are causing or contributing to specific receiving water

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
					conditions, or whether additional data need to be collected through the Monitoring and Assessment Program developed as part of the Water Quality Improvement Plan.”
32	B.2.b	16	Identify Priority Pollutants and Receiving Water Conditions Identification of Priority Receiving Water Conditions (Title Revision)	We appreciate the Regional Board’s approach to identifying priorities for receiving water conditions. Our proposed revisions to the Permit add several elements that should be included by Copermittees when identifying priority receiving water conditions. Following the Regional Board’s approach, “priorities” are also differentiated from “highest priorities” (see new sub-bullet 6). Note the proposed revision to the title of the section, which better reflects the envisioned effort/outcome.	As shown in the attached revised Permit, rename section to “Identification of Priority Receiving Water Conditions” and add the following to the end of the Section B.2., as follows: “The Water Quality Improvement Plans shall describe the following for each priority receiving water condition: (1) The beneficial use(s) and pollutant(s) associated with the priority receiving water condition(s); (2) The geographic extent of the priority receiving water condition(s) within the WMA, if known; (3) The Copermittees with MS4s that contribute discharges to the priority water receiving condition(s); (4) The temporal extent of the priority receiving condition(s) (i.e., dry weather and/or wet weather); (5) Whether receiving waters have been monitored sufficiently to adequately characterize the priority receiving condition(s), including a consideration of spatial and temporal variation; and (6) The reasoning for selecting specific receiving water conditions as a priority and a subset of priorities as the highest priorities.”
33	B.2.c	16-	Pollutant Source	The success of WQIPs will hinge on the ability of	

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
		17	and/or Stressor Identification MS4 Pollutant Source Identification (Title Revision)	MS4s to identify and abate sources of pollutants within the MS4s. The pollutant source identification process proposed by the Regional Board is too broad and inhibits the Copermittees from focusing on the sources they are most able to control. In addition, some pollutants are poorly understood and need to be further investigated to allow for design of pollutant control strategies [new sub-bullet d.(4).(5)]. The proposed revisions to the Source ID section are intended to effectively focus the WQIP prioritization process.	<p>As shown in the attached revised Permit, rename section to “MS4 Pollutant Source Identification” and revise the section, as follows:</p> <p>See the changes proposed in the attached revised Permit, which focuses the Source ID section on MS4 sources and impacts. The new section B.2.d follows:</p> <p>“The Copermittees must identify <u>and prioritize</u> known and suspected storm water and non-storm water pollutant sources within the MS4 associated with the highest priority receiving water conditions identified under II.B.2.c. The identification of known and suspected sources of the highest water quality priorities as identified for Provision B.2.c shall consider the following :</p> <ol style="list-style-type: none"> (1) Land uses and their potential contribution to the highest priority receiving water conditions; (2) Pollutant generating facilities, areas, and/or activities within the Watershed Management Area;: (3) Locations of the Copermittees’ MS4s outfalls. (4) Review of available data, including: <ol style="list-style-type: none"> (a) Findings from the Copermittees’ illicit discharge detection and elimination programs, (b) Findings from the Copermittees’ MS4 outfall monitoring,

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
					<p>(c) Other available, relevant, and appropriately-collected data, information, or studies related to pollutant sources and pollutant-generating activities that contribute to the highest priority receiving water conditions identified in Provision II.B.2.</p> <p>(5) Whether MS4 sources are sufficiently well known to design an effective, directed control strategy, or whether additional source/stressor identification needs to be conducted through the Monitoring and Assessment Program developed as part of the Water Quality Improvement Plan to identify and prioritize sources/stressors within the watershed.”</p>
34	B.2.d	17-18	Numeric Targets and Schedules Numeric Goals (Title Revision)	We appreciate the Board staff efforts to allow the MS4s to prioritize their water quality issues and to develop a plan to address these issues. However, the terminology in Provision B.2.d regarding interim and final targets are terms used in TMDL program and their use here confuses the issue. In fact, Provision 2.d (3)(e) clearly ties the numeric “targets” with a TMDL. The WQIP should identify interim and final numeric “goals” to keep the distinction clear between a TMDL and a WQIP. It is entirely possible that the interim goal may in fact be the same as an interim TMDL target but not necessarily.	Replace “numeric target” with “numeric goal” throughout Provision B.
35	B.2.d	17-18	Numeric Targets and Schedules	It will be critical to quantify the expected outcomes of WQIP implementation efforts, and numeric goals serve	As shown in attached revised Permit, revise section B.2.d, as follows:

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
			Numeric Goals (Title Revision)	<p>to elucidate those expected outcomes. Based on the proposed revisions to the WQIP goals and elements, revisions to the description of the purpose of numeric goals are also proposed.</p> <p>Furthermore the notation of “target” implies a compliance effluent limit and thereby subject to enforcement action, versus goals set by the Copermittees that do not trigger any enforcement action by themselves.</p>	<p>The Copermittees must develop and incorporate interim and final numeric⁶ goals⁷ into the Water Quality Improvement Plans. Numeric goals and schedules are intended to support Water Quality Improvement Plan development and to measure progress towards addressing the highest priority receiving water conditions identified under II.B.2.Error! Reference source not found. Numeric goals themselves are not enforceable compliance standards, effluent limitations, or receiving water limitations. When establishing numeric goals and corresponding schedules, the Copermittees must consider the following:</p> <ol style="list-style-type: none"> (1) Final numeric goals must be based on measureable criteria or indicators, to be achieved in the receiving waters and/or MS4 discharges for the highest priority receiving water conditions which will be capable of demonstrating progress toward the achievement of the restoration and/or protection of water quality standards in receiving waters; and (2) Interim numeric goals must be based on measureable criteria or indicators that can demonstrate incremental progress toward achieving the final numeric goals in the receiving waters and/or MS4 discharges. <p>Footnote 7: “Interim and final numeric goals may take a variety of forms such as TMDL targets, TMDL wasteload allocations, TMDL based</p>

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
					WQBELs incorporated in Attachment E of this Order, action levels, pollutant concentration, load reductions, number of impaired water bodies delisted from the List of Water Quality Impaired Segments, Index of Biotic Integrity (IBI) scores, or other appropriate metrics. Interim and final numeric goals are not necessarily limited to one criterion or indicator, but may include multiple criteria and/or indicators. To the extent that a goal is not based on an enforceable regulatory mechanism (i.e., TMDL, WLA), WQIP goals and schedules may be revised through the iterative process. Numeric goals are not subject to enforcement or non-compliance actions under this Order.”
36	B.2.d.3	17-18	Numeric Targets and Schedules Implementation Schedules (Title Revision)	The schedule for achieving a numeric goal is tied to <i>implementation</i> not the goals itself. Therefore, it is recommended that part B.2.3 be moved to the section that describes WQIP implementation schedule requirements.	As shown in the revised Permit, sub-bullet (3), which is the schedule component of B.2.e, should be moved to section B.3.b to improve organization of WQIP concepts.
37	B.3	18-19	Water Quality Improvement Strategies and Schedules	The current version of B.3 requires that the MS4s have <u>all</u> of the following water quality improvement strategies in their WQIP (sub-bullets B.3.a.1 through B.3.a.4): structural and non-structural BMPs, retrofit projects, stream and/or habitat rehabilitation, and other water quality improvements associated with eliminating non-stormwater discharges to the MS4s. This may be an appropriate menu of actions to choose from, but pending the water quality issues and the watershed, the WQIP strategies may include all or only one of the strategies listed.	As shown in the revised Permit, revise section B.3, as follows: See the changes proposed in the attached revised Permit section B.3. Sub-bullets B.3.a.1 through a.4 are revised and condensed into two sub-bullets, one for JRMP activities and one for other structural and non-structural BMPs. These two sub-bullets compose the universe of BMPs that would be implemented by the Copermittees to meet the WQIP numeric goals:

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
					<p>(1) Copermittee-selected activities identified in Provision E ,either as described in the jurisdictional runoff management programs or as modified with justification, that will address the highest priority receiving water conditions; and (2) Additional Copermittee-selected structural and/or non-structural BMPs that are designed to achieve the interim and final numeric goals.</p> <p>a. WATER QUALITY IMPROVEMENT STRATEGIES</p> <p>The water quality improvement strategies must prioritize, based on their likely effectiveness and efficiency, and implement measures, as appropriate, to effectively prohibit non-storm water discharges into its MS4, reduce pollutants in storm water discharges from its MS4 to the MEP, and achieve the interim and final numeric goals in accordance with the schedules in Provision II.B.2.e. Measures shall include:</p> <p>(1) Activities identified in Provision E either as described or as modified, with justification, at the discretion of each Copermittee³; and</p> <p>(2) Structural and/or non-structural BMPs that are designed to achieve the interim</p>

³ Activities considered for modification shall include those required in Provisions II.D and II.E with the exception of II.E.3.c.(2)(b), II.E.3.c.(2)(d) and II.E.3.c.(3).

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
					and final numeric goals identified in Provision II.B.2.e.
38	B.3.b	19	Implementation Schedules	Implementation of the WQIPs should form the basis of Permit compliance. As commented above, the schedule bullets from the Numeric Targets section should be moved to the Implementation Schedule section. Furthermore, the requirement that “Final dates for achieving final numeric targets must not extend more than 10 years...” is one of the most disconcerting requirements in the Permit. Based on conversations with Regional Board staff, it is understood that goals can take a number of forms and the “10 year” requirement is not intended as a requirement to attain all Basin Plan water quality standards within 10 years. However, to ensure this requirement is not misinterpreted by third parties, language should be added to make this clarification.	<p>As shown in the attached revised Permit, add a footnote to sub-bullet (5), as follows:</p> <p>“Achievement of final numeric goals within 10 years represents progress towards attainment of water quality standards, but is not a requirement to fully attain all applicable water quality standards or all priority receiving water conditions within 10 years.”</p>
39	B.4	19-20	Water Quality Improvement Monitoring and Assessment	<p>Monitoring and assessment will be a critical component of the WQIP process. The vision for WQIP monitoring and assessment is reflected in the proposed revised language for Permit section B.4. A major aspect of this vision is that monitoring requirements in Provision D will be fully integrated into the WQIPs and modified as the WQIPs evolve.</p> <p>The proposed language clarifies the Copermittee’s vision for purpose and components of WQIP monitoring and assessment. The requested linkage with Provision D is highlighted through the proposed revision.</p>	<p>As shown in the attached revised Permit revise section B.4, as follows:</p> <p>The Copermittees in each Watershed Management Area must develop an integrated Water Quality Improvement Plan Monitoring and Assessment Program that assesses: 1) progress toward achieving the numeric goals and schedules, 2) progress toward addressing the highest priority receiving water conditions for each Watershed Management Area, and 3) each Copermittee’s overall efforts implementing the requirements of Provision B. The water quality improvement monitoring and assessment program must include the monitoring and assessment requirements of</p>

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
					Provision D , which may be modified for consistency with the priority receiving water conditions of each Watershed Management Area and associated Copermittees. For Watershed Management Areas with applicable TMDLs, the water quality monitoring and assessment program must incorporate the specific monitoring and assessment requirements of Attachment E . For Watershed Management Areas with any ASBS, the water quality monitoring and assessment program must also incorporate the monitoring requirements of Attachment B to State Water Board Resolution No. 2012-0012 (see Attachment A).
40	B.5	20-21	Adaptive Management Process	<p>The WQIPs provide an opportunity to integrate water quality improvement strategies (e.g, TMDL implementation) and jurisdictional runoff management programs. The Copermittees have embraced the concept of WQIPs and propose to revise the Permit to fully integrate JRMPs into the WQIP process. The Adaptive Management section B.5 proposed by the Regional Board has two components: WQIP adaptive management and JRMP adaptive management.</p> <p>With the proposed expanded scope of the WQIPs proposed by the Copermittees, the two components of the adaptive management process are not WQIP and JRMP, instead the components are (1) Priority Receiving Water Conditions and Numeric Goals and (2) Water Quality Improvement Strategies and Schedules. The proposed revisions to section B.5 reflect the Copermittee’s vision for WQIP implementation.</p>	<p>As shown in the attached revised Permit revise section B.5, as follows:</p> <p>The Copermittees in each Watershed Management Area must implement the iterative process, adapting the Water Quality Improvement Plan to become more effective and meet the requirements of Provisions II.A, and shall consider the following:</p> <p>a. PRIORITY RECEIVING WATER CONDITIONS AND NUMERIC GOALS</p> <p>The priority receiving water conditions and numeric goals, developed pursuant to II.B.2.c. and II.B.2.e respectively, shall guide jurisdictional implementation efforts for the duration of this Order. Recommendations for changes to priority receiving water conditions and numeric goals shall be provided in the Report of Waste Discharge and shall consider the following:</p>

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
				<p>Most of the components of the adaptive management process proposed by the Regional Board (sub-bullets B.5.a.1.a thru h and B.5.b.1.a thru e) are included. The proposed language adds clarification on the purpose of the adaptive management process and re-organizes into two alternative management categories: (1) Priority Receiving Water Conditions and Numeric Goals and (2) Water Quality Improvement Strategies and Schedules.</p> <p>Note that these two management categories are adapted on different timelines:</p> <ul style="list-style-type: none"> • Priority Receiving Water Conditions and Numeric Goals would be adapted, at a minimum, on a frequency that corresponds to Permit cycles (every 5 years). In this manner the ROWD for future permits is supported by the WQIP process. It is <u>not</u> expected that priority receiving water conditions and numeric goals would vary on a shorter frequency, and thus resources for adaptive management should be focused on the strategies/BMPs used to <i>achieve</i> the numeric goals. • Water Quality Improvement Strategies and Schedules would be adapted annually, allowing modification to the JRMP elements, structural BMPs, and non-structural BMPs for achieving numeric goals. <p>Finally, to improve organization, it is proposed that the requirements regarding WQIP and JRMP modification and submittals (sub-bullets B.5.a.2 thru 3 and B.5.b.2 thru 3) be moved to a new section B.6.</p>	<ol style="list-style-type: none"> (1) Achieving the outcome of improved water quality in MS4 discharges and receiving waters through implementation of the water quality improvement strategies identified in the Water Quality Improvement Plan; (2) Progress toward achieving interim and final numeric goals in receiving waters and/or MS4 discharges for the highest water quality priorities in the Watershed Management Area (3) New scientific information or new or updated policies or regulations that affect identified numeric goals including revised water quality objectives or TMDLs; (4) Spatial and temporal accuracy of monitoring data collected to inform prioritization of water quality problems and implementation measures to address the highest priority receiving water conditions; (5) Availability of new information and data from sources other than the jurisdictional runoff management programs within the Watershed Management Area that

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
					<p>informs the effectiveness of the actions implemented by the Copermittees;</p> <p>(6) The factors listed in Provision II.B.2.a.(1)-(10);</p> <p>(7) San Diego Water Board recommendations; and</p> <p>Recommendations for modifications solicited through a public participation process.</p> <p>b. WATER QUALITY IMPROVEMENT STRATEGIES AND SCHEDULES</p> <p>The water quality improvement strategies and schedules required pursuant to II.B.3 shall be adapted as new information becomes available to inform more effective and efficient means of achieving the numeric goals established in II.B.2.e. Copermittees shall consider adaptation to b- JURISDICTIONAL RUNOFF MANAGEMENT PROGRAM ADAPTIVE MANAGEMENT PROCESS</p> <p>jurisdictional programs and monitoring and assessment strategies and schedules at least annually considering the following:</p> <p>(1) Changes to priority receiving water conditions and numeric goals based on recommendations from II.B.5.a.;</p>

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
					(2) Measurable or demonstrable reductions of non-storm water discharges to each Copermittee's MS4; (3) Measurable or demonstrable reductions of pollutants in storm water discharges from each Copermittee's MS4 to the MEP; (4) Information on the MS4 sources and/or pollutant-generating activities determined to be most significantly contributing to priority receiving water conditions; (5) Efficiency in implementing the Water Quality Improvement Plan; (6) San Diego Water Board recommendations; and (7) Recommendations for modifications solicited through a public participation process.
41	B.6	21	Water Quality Improvement Plan Implementation	The WQIP development and implementation process has several components and requirements for submittals to the Regional Board. As described in the first comments for Provision B, a staggered WQIP submittal schedule is proposed to extend the timeline to 18 months while still ensuring rapid progress on WQIP development. This proposal is described in the	6. Water Quality Improvement Plan Submittal, Implementation, and Modifications a. PRIORITY RECEIVING WATER CONDITIONS, MS4 SOURCES, AND NUMERIC GOALS

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
				<p>proposed language for the new Section B.6.</p> <p>Furthermore, requirements for submittals to the Regional Board following modifications due to adaptive management would also fall under section B.6.</p> <p>A staggered approach to WQIP development is proposed, as detailed in a proposed section B.6. This staggered approach ensures rapid progress on WQIP development while providing a feasible WQIP submittal and initiation schedule:</p> <ol style="list-style-type: none"> 1. The WQIP priorities and numeric goals are presented to the Regional Board within 6 months of the adopted Order. (B.6.a) 2. The complete WQIPs and corresponding jurisdiction measures are submitted 12 months later. (B.6.b) 3. WQIP implementation is initiated at the beginning of the next fiscal year. (B.6.b) <p>Furthermore, adaptive management submittals (i.e., WQIP modifications) are combined and described under Section B.6.c and B.6.d (these requirements were previously described under section B.5.a.2 thru 3 and section B.5.b.2 thru 3.</p>	<p>The Copermittees in each Watershed Management Area must submit the proposed priority receiving water conditions, MS4 sources, and numeric goals required in Provisions II.B.2.c-e. for San Diego Water Board Executive Officer review and approval no later than 6 months following adoption of this Order. Priority receiving water conditions, MS4 sources, and numeric goals are deemed approved if no response is provided to the Copermittees within 2 months of the submittal date.</p> <p>a. WATER QUALITY IMPROVEMENT PLANS</p> <p>Copermittees shall commence development of the remaining portions of the Water Quality Improvement Plans upon approval of the priority receiving water conditions, MS4 sources, and numeric goals by the San Diego Water Board Executive Officer in II.B.6.a. Copermittees must submit complete Water Quality Improvement Plans for San Diego Water Board review and approval no later than 18 months following adoption of this Order. Copermittees must commence with implementation of the Water Quality Improvement Plan no later than the fiscal year (July 1) following San Diego Water Board approval. Water Quality</p>

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
					<p>Improvement Plans are deemed approved if no response is provided to the Copermittees within 6 months of the submittal date.</p> <p>b. WATER QUALITY IMPROVEMENT PLAN MODIFICATIONS</p> <p>Copermittees must submit requested modifications to the Water Quality Improvement Plan either in the Annual Report required pursuant to Provision II.F.3.b, or as part of the Report of Waste Discharge (ROWD) required pursuant to Provision II.F.5</p> <p>.b. Once approved by the San Diego Water Board Executive Officer, the Copermittees must implement any modifications to the Water Quality Improvement Plan in accordance with the schedules developed pursuant to Provisions II.B.2 and II.B.3.b. Requests for modification are deemed approved if no response is provided to the requesting Copermittee(s) within 3 months of the request date.</p>
C. Action Levels					
42	C. (Intro)	22	Action Levels	The Draft Order in Provision B states that the goal of the WQIP is to identify the highest water quality priorities within a watershed and implement strategies to achieve improvements in the quality of discharge and receiving waters. Furthermore in Provision B.2.d the Permittees are required to develop and use <i>interim and final numeric targets/goals</i> to measure progress towards the protection/enhancement of the receiving	<p>As shown in the attached revised Permit, revise introductory paragraphs of section C, as follows:</p> <p>“The purpose of this provision is for the Copermittees to incorporate numeric non-storm water and storm water action levels in the Water Quality Improvement Plans and numeric non-</p>

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
				<p>waters and beneficial uses. The choice of the target/goals of the watershed may be biological, chemical, or physical based and may include multiple criteria and/or indicators.</p> <p>The permit should provide a clear linkage between Provision B and Provision C and state that the WQIP should guide the customization of the NALs/SALs to meet the highest water quality priorities in a given watershed and that NALs/SALs will be used to assist Copermittees in reaching the goals specified in the WQIP. The introduction to Provision C indicates that the <i>action levels</i> (NALs and/or SALs) will be incorporated into the WQIPs (B.2.d) and used to:</p> <ul style="list-style-type: none"> a) Measure progress towards the protection/enhancement of the receiving waters and beneficial uses (B.4) ; b) Direct and focus the JRMP implementation efforts for addressing MS4 discharges (D.4.a); and c) Detect and eliminate non-stormwater and illicit discharges to the MS4 (E.2) <p>Although action levels will be used for several different purposes, the action levels defined in Provision C.1 and C. 2 are chemically based and may be in conflict with the selected watershed metrics. As an example, if the watershed metric is improved IBI scores for a water body, then NALs and SALs associated with water chemistry are unlikely to be the best metric to evaluate progress towards improving IBI scores or for assessing our implementation efforts. Thus, the chemically based NALs/SALs may direct resources away from the watershed priorities.</p> <p>Since Provision C indicates that there are three different</p>	<p>stormwater action levels into the IDDE Program. The action levels shall be used to guide the following program planning efforts and measure progress towards attaining the reasonable protection, preservation, and enhancement of water quality and designated beneficial uses of waters of the state:</p> <ol style="list-style-type: none"> 1) Support development and prioritization of water quality improvement strategies through the Water Quality Improvement Plans. Discharge data above action levels can be evaluated using a statistical approach considering the frequency, magnitude, and loading of discharges to the receiving waters to support development of actions and prioritization of their implementation. 2) Assist in the effective prohibition of non-stormwater discharges from the MS4 pursuant to Provision E.2. 3) Support the detection and elimination of illicit discharges to the MS4 pursuant to Provision E.2. <p>These goals will be accomplished through monitoring and assessing the quality of the MS4 discharges prior to and during the implementation of the Water Quality Improvement Plans and as a part of the IDDE Program. Exceedances of action levels are not subject to enforcement or non-compliance actions under this Order. ”</p>

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
				<p>purposes for the action levels, the permit should recognize that the action levels for each permit provision (B.4, D.4.a, and/or E.2) may be based on different constituents, metrics, and/or may be different values.</p> <p>As a result, the permit should establish the purposes of the action levels and then allow the Copermittees to establish the numeric action levels. For our purpose we would submit that the action levels should be developed to support program planning and measure progress towards attaining the protection of the beneficial uses.</p>	
43	C. (Intro)	22	Action Levels	<p>The development of action levels, including the timeline should be clearly linked to the Water Quality Improvement Plans. A timeline that is separate and different from the development of the Water Quality Improvement Plans is not necessary. Previously developed action levels should serve as interim action levels until the Water Quality Improvement Plans are completed.</p>	<p>As shown in the attached revised Permit, revise concluding paragraph of section C, as follows:</p> <p>Action levels will be developed and incorporated into the Water Quality Improvement Plans (Provision B) including the Illicit Discharge Detection and Elimination (IDDE) Program (Provision E.2). Depending upon the goals/objectives for the use of the action levels and the priority receiving water conditions, the constituents and values at which they are set may differ between watersheds. Copermittees may develop Watershed Management Area specific numeric action levels for non-storm water and storm water MS4 discharges using an approach approved by the Regional Board or use the default non-stormwater and stormwater action levels prescribed within C.1 and C.2 below, respectively. The Copermittees will submit action levels as part of their Water Quality Improvement Plan(s). The action levels currently established will serve as the interim action levels until revised action levels are</p>

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
					completed and approved.
44	C. (Intro)	22	Action Levels	<p>The introduction to Provision C indicates that numeric action levels must be <i>developed</i> for non-stormwater and stormwater MS4 discharges.....</p> <p>Although the permit states that NALs/SALs must be <i>developed</i>, the permit then mandates which constituents must have NALs/SALs and what the values of the action levels are.</p> <p>As stated above, the Permit should include an approach that allows the Permittees the opportunity to <i>develop</i> the NALs/SALs.</p>	<p>As shown in the attached revised Permit, add the following to the introduction to C.1, as follows:</p> <p>The following non-storm water action levels (NALs) must be incorporated in the Water Quality Improvement Plan and IDDE program if the Permittees have not developed their own NALs using an approach approved by the Regional Board EO:</p>
45	C.1		Non-Stormwater Action Levels	<p>Referencing the CTR as a “source” is misleading. It is unclear why the Board is excluding the conversion factor from the CMC and CCC Metals Criteria equations from the CTR to generate total recoverable metals criteria. Table notes need to be updated to explain how NALs were derived. It should be made clear that the MDALs and AMALs were calculated using State Implementation Standard (SIP) procedures.</p>	<p>Add appropriate references to the State Implementation Standard procedures and provide a narrative explanation for reasoning and application in the fact sheet, when provided.</p>
46	C.1	22-24	Non-Stormwater Action Levels	<p>Provision C.1.b of the permit requires that additional NALs must be incorporated into the Permit for any constituents causing or contributing to conditions associated with the highest non-stormwater related water quality priorities.</p> <p>In Provision C.1.a the Permit mandates the NALs that must be incorporated into the WQIP.</p> <p>This provision results in the potential for NALs to be incorporated into the WQIP that may have no direct</p>	<p>The permit should provide a clear linkage between Provision B and Provision C and state allow the WQIP to guide the customization of the NALs based on the watershed needs.</p> <p>As a result, the Permit should provide two approaches for the NALs:</p> <ol style="list-style-type: none"> 1. Permittees develop the NALs based on the highest water quality priorities; or 2. Permittees use the default NALs and

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
				linkage to the highest water quality priorities. Flexibility should be added to the permit language to allow Copermittees to implement NALs based on the watershed's highest priorities and for those NALs to be included, as appropriate, in the WQIP. Otherwise Copermittees may be required to expend time and resources on numeric metrics not associated with the highest priorities in a given watershed instead of addressing the highest priorities.	<p>approach identified in Provision C (both provision C.1.a and C.1.b)</p> <p>The following is recommended language to support this approach.</p> <p>C.1.c. Dry weather monitoring and assessment data from MS4 outfalls collected in accordance with Provision D.1.a may be used to develop or revise NALs based upon watershed-specific data. Revision of NALs is subject to Regional Board approval.</p>
47	C.2	25	Storm Water Action Levels	Provision C.2.b requires that additional SALs must be incorporated into the Permit for any constituents causing or contributing to conditions associated with the highest non-stormwater related water quality priorities. The development of SALs may be based on one of 3 options: 1) water quality standards; 2) site specific conditions; and 3) numeric WQBELs. As noted previously the Copermittees believe that it is critical that flexibility be provided in the development and implementation of the SALs to allow the Copermittees to address their highest water quality issue(s). Consequently the Copermittees support other options for developing SALs.	<p>Other options that should be included for the development of the SALs in the Permit are the approaches identified in the California Storm Water Panel in its report, "The Feasibility of Numerical Effluent Limits Applicable to Discharges of Storm Water Associated with Municipal, Industrial and Construction Activities" (June 2006).</p> <p>As previously noted, if the Copermittees do not establish action levels to support the WQIP then the Copermittees must use the SALs identified in Provision C.</p>
D. Monitoring and Assessment Requirements [**See attached Monitoring Principles**]					
E. Jurisdictional Runoff Management Programs					
48	E	53	Jurisdictional Runoff Management Programs	Modifications/clarifications to the first sentence.	<p>As shown in the attached revised Permit, revise the language, as follows:</p> <p>"The purpose of this provision is for each Copermittee to implement a program to control the discharge<u>contribution</u> of pollutants into and the discharges from their<u>into and the</u> respective MS4s<u>respective MS4s</u> to receiving</p>

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
					<u>waters within its jurisdiction and to focus and prioritize those implementation actions based on the highest water quality priorities identified within the associated Water Quality Improvement Plan.</u>
49	E	53	Jurisdictional Runoff Management Programs	As stated in the second introductory paragraph in Provision E “The jurisdictional runoff management programs implemented by each Copermittee must be consistent with the Water Quality Improvement Plan for the applicable Watershed Management Area required by Provision B.” Additionally, as stated in the introduction to the WQIP (Section B) “The purpose of this provision is to develop Water Quality Improvement Plans that guide the Copermittees’ jurisdictional runoff management program implementation efforts...” However, the provisions do not clearly allow for the appropriate modification of the JRMP requirements contained in the permit. Given this, it is unclear that the Copermittees would be able to implement a JRMP consistent with the WQIP unless the WQIP was designed to implement the JRMP in the exact manner as required by the current provisions in Provision E.	Include language into the introductory paragraph that clearly indicates that the JRMP requirements contained in Provision E may be modified to allow for implementation of the JRMP consistent with the WQIP if appropriate justification is provided. Add the following language: <u>“As such, the requirements of the jurisdictional runoff management programs as outlined below may be modified and prioritized as appropriate for consistency with the highest water quality priorities identified in the Water Quality Improvement Plan for the applicable Watershed Management Area if appropriate justification is provided.”</u>
50	E & Attachment C	Throughout	Jurisdictional Runoff Management Programs	Clarification.	Refer to Permanent BMPs as Structural BMPs and add a definition for structural BMPs into Attachment C.
51	E	Throughout	Jurisdictional Runoff Management Programs	Clarification for consistency.	Change “ Permanent BMP Sizing Criteria Design Manual ” to “ <u>BMP Design Manual</u> ” and make reference to the current design requirements under R9-2007-0001.
52	E.1.a.2	53	Legal Authority Establishment and Enforcement	Sites regulated under the Construction and Industrial General Permits are regulated elsewhere and through alternative means. Clarification is necessary for sites that are not regulated under the respective General Permits.	As shown in the attached revised Permit, revise the language, as follows: “Control the contribution of pollutants in discharges of runoff associated with industrial and construction activity <u>into</u> its MS4 and control the

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
					<p>quality of runoff from industrial and construction sites including industrial and construction sites which have coverage under the statewide General Permit for Discharges of Storm Water Associated with Industrial Activities (Industrial General Permit) or General Permit for Discharges of Storm Water Associated with Construction Activities (Construction General Permit), as well as to those sites which do not;</p> <p>And add the footnote: “The Permittees will only be responsible for administering and enforcing the codes and ordinances applicable to their jurisdictions (i.e.; a municipality is not responsible for administering and/or enforcing a permit issued by the State of California).”</p>
53	E.1.a.4 and E.1.a.5	53-54	Legal Authority Establishment and Enforcement	The Copermitees do not have jurisdiction to control MS4 discharges outside of their respective MS4s and the Regional Board does not have the authority to require interagency agreements to grant such jurisdiction, particularly for those agencies not subject to the Order (Caltrans, Native American Tribes, Military installations, etc.)	<p>As shown in the attached revised Permit, revise the language, as follows:</p> <p>“Control through interagency agreements among Copermitees the contribution of pollutants from one portion MS4 to another portion of the MS4;” and “Control through interagency agreements with other owners of the MS4 such as Caltrans, the U.S. federal government, or sovereign Native American Tribes, where possible, the contribution of pollutants from one portion of the MS4 to another portion of the MS4;”</p> <p><u>(4) The permittees are encouraged to enter into interagency agreements with owners of other MS4 systems, such as Caltrans, school and college districts, universities, Department of Defense, Native American Tribes, etc., to control the</u></p>

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
					<u>contribution of pollutants from one portion of the MS4s to another portion.</u>
54	E.1.a.7&8	54	Legal Authority Establishment and Enforcement	Copermittees must have the legal authority to control contribution of pollutants in discharges of runoff to its MS4 – mandating the legal authority to require BMPs is not necessary. Additionally, it is not realistic to require homeowners or other private responsible parties to ensure effectiveness of structural BMPs.	Delete E.1.a.7 and E.1.a.8
55	E.1.a.10	54	Legal Authority Establishment And Enforcement	Incorporate language from existing Orange County permit that acknowledges that legal authority will be included in ordinances to the extent permitted by the constitution.	As shown in the attached revised Permit, revise the language, as follows: <u>“The Copermittee’s ordinance must include adequate legal authority, to the extent permitted by California and Federal Law and subject to the limitations on municipal action under the constitutions of California and the United States,”</u>
56	E.2.a	54	Illicit Discharge Detection and Elimination	Some non-storm water discharges are authorized under the permit unless the Copermittee or San Diego Water Board determines they are a source of pollutants in receiving waters. Language should be provided to account for subsection E.2.a.(3).	As shown in the attached revised Permit, revise the language, as follows: <u>“Each Copermittee must address all non-storm water discharges as illicit discharges, where the likelihood exists that they are a source of pollutants to waters of the state.”</u>
57	E.2.a.2	55	Illicit Discharge Detection and Elimination	There is no basis for addressing potable water as an illicit discharge to the MS4 unless pollutants are discharged as a result of the water line flushing or a water main break.	As shown in the attached revised Permit, revise the language, as follows: <u>“Discharges of non-storm water from water line flushing and water main breaks to the MS4 must be addressed as illicit discharges unless the discharge has coverage under a valid NPDES Permit. This includes water line flushing and water main break discharges from water purveyors under the Copermittee’s jurisdiction that has been issued a water supply permit by the California Department of Public Health or federal military installations. Discharges from recycled or reclaimed water lines to the MS4 must be addressed as illicit discharges, unless the discharges have coverage under a</u>

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
					separate NPDES permit.
58	E.2.a.1	55	Illicit Discharge Detection and Elimination	There is no technical basis or water quality concern that justifies the classification of uncontaminated pumped ground water, discharges from foundation drains, water from crawl space pumps, water from footing drains, water line flushing and water main breaks as illicit discharges. These discharges have little to no contribution to water quality pollution. Addressing these non-stormwater discharges as illicit discharges is not a good use of Copermittee resources and they should be added back to the list of allowable non-stormwater discharges.	<p>Add the following back to the list of allowable non-stormwater discharges:</p> <ul style="list-style-type: none"> • Uncontaminated pumped ground water • Discharges from foundation drains • Water from crawl space pumps • Water line flushing • Water main breaks
59	E.2.a.2	55	Illicit Discharge Detection and Elimination	<p>The provision states: “Discharges from recycled or reclaimed water lines to the MS4 must be addressed as illicit discharges, unless the discharges have coverage under a separate NPDES permit.”</p> <p>What does this mean for Cities where a separate Water District has a separate Permit for recycled water lines? Are cities primarily responsible for “addressing the illicit discharge,” or is the Water District responsible for enforcing its permit? Does this discussion apply to on-site irrigation lines?</p>	Please clarify.
60	E.2.a.4	56	Illicit Discharge Detection and Elimination	See comment E.2.a.	<p>As shown in the attached revised Permit, revise the language, as follows: “or similar meanswhere there is evidence that those discharges are a source of pollutants to waters of the state”</p>
61	E.2.a.4.a	56	Illicit Discharge Detection and Elimination	Individual buildings may require substantial structural modifications to redirect air conditioning condensation to landscaped areas. Redirection should be encouraged instead of required.	<p>As shown in the attached revised Permit, revise the language, as follows: “The discharge of air conditioning condensation must <u>should</u> be directed to landscaped areas or other pervious surfaces where feasible;”</p>

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
62	E.2.a.4.b	56	Illicit Discharge Detection and Elimination	Complete removal of residential car washing activities is unrealistic and resources would be better used to educate the public. Public outreach has proven to be also effective in minimizing water and detergent use and encouraging the use of commercial facilities.	<p>As shown in the attached revised Permit, revise the language, as follows: “(b) Individual residential vehicle washing – Residents should be encouraged, through public outreach and education, to implement the following when washing their vehicles:</p> <p>(i) <u>Direct</u> the discharge of wash water must be directed to landscaped areas or other pervious surfaces where feasible, and</p> <p>(ii) Minimize the use of water for vehicle washing, use as little washing detergent and other vehicle wash products as possible, wash vehicles at commercial wash facilities, and implement other practices or behaviors that will prevent the discharge of pollutants associated with individual residential vehicle washing from entering the MS4; and”</p>
63	E.2.a.4.c.ii	56	Illicit Discharge Detection and Elimination	Clarify. Discharges of saline water to the MS4 cannot be directed out of the MS4 once the discharge has occurred. Allow saline discharges to salt water receiving waters.	<p>As shown in the attached revised Permit, revise the language, as follows: “The discharge of saline swimming pool water to the MS4 must be directed to the sanitary sewer (with approval from the sanitary sewer agency), landscaped areas, or other pervious surfaces that can accommodate the volume of water <u>or to the MS4 if the MS4 discharges to a saltwater receiving water.</u>”</p>
64	E.2.a.5.b	56-57	Illicit Discharge Detection and Elimination	Priorities for emergency procedures such as firefighting are public health and safety. The paragraph on Emergency Fire Fighting discharges should reflect the language included in the County’s current permit. In addition, the language for the non-emergency fire fighting activities should be streamlined.	<p>As shown in the attached revised Permit, revise the language, as follows: (1) “Firefighting discharges to the MS4 must be addressed by the Copermittees as illicit discharges only if the Copermittee or the San Diego Water Board identifies the discharge as a significant source of pollutants to receiving</p>

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
					<p>waters. Firefighting discharges to the MS4 not identified as a significant source of pollutants to receiving waters, must be addressed, at a minimum, as follows.”</p> <p>Delete language in E.2.a.5.b and replace with:</p> <p>(a) <u>“Emergency fire fighting flows (i.e., flows necessary for the protection of life or property) do not require BMPs and need not be prohibited. As part of the Jurisdictional Runoff Management Plan (JRMP), each Copermittee must develop and implement a program to address pollutants from non-emergency fire fighting flows (i.e., flows from controlled or practice blazes and maintenance activities) identified by the Copermittee to be significant sources of pollutants to waters of the United States.”</u></p>
65	E.2.b.1.e	58	Illicit Discharge Detection and Elimination	Clause is redundant and confusing.	As shown in the attached revised Permit, revise the language, as follows: (i.e., receiving water segments that are both a receiving water and part of the MS4),
66	E.2.b.2	58	Illicit Discharge Detection and Elimination	Clarification is necessary to limit employee responsibilities to within the terms of their employment.	As shown in the attached revised Permit, revise the language, as follows: “Each Copermittee must use Copermittee personnel and contractors should assist in identifying and reporting illicit discharges and connections, <u>if observed during the course of their daily employment activities;</u> ”
67	E.2.b.4	58	Illicit Discharge Detection and Elimination	The addition of language is necessary to limit Copermittees responsibility to standards that may reasonably be met.	As shown in the attached revised Permit, revise the language, as follows: “Each Copermittee must implement practices and procedures (including a notification mechanism) to prevent, respond to, contain, and clean up any spills

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
					that may discharge into the MS4 <u>within their jurisdiction</u> from any source. The Copermittee must coordinate with spill response teams to prevent to <u>the extent possible</u> entry of spills into the MS4, and prevent contamination of surface water, ground water, and soil.”
68	E.2.c	58	Illicit Discharge Detection and Elimination: Field Screening and Monitoring	Visual observations should be acknowledged as a way to detect non-storm water and illicit discharges and connections.	Add “ <u>Visual Observations</u> ” to the provision header and acknowledge within the text.
69	E.2.d.2 & E.2.d.3	59 – 61	Illicit Discharge Detection and Elimination: Investigate and Eliminate	Sections 2 and 3 outline the procedures that Copermittees must have in place. Not all language under these headers speak to procedures. Additionally, some overlap exists between these two sections.	Edit were made to ensure that requirements addressed the development of procedures. Additional edits made for clarity and to reduce overlap between sections. See the strikeout document of the admin draft for specifics.
70	E.2.d.2	59	Illicit Discharge Detection and Elimination	Language should be added for discharges to receiving waters <u>within</u> the jurisdiction of the Copermittee.	As shown in the attached revised Permit, revise the language, as follows: “Each Copermittee must implement procedures to investigate and inspect portions of its MS4 that, based on reports or notifications, <u>visual observations</u> , field screening and monitoring, or other appropriate information, indicate a reasonable potential of receiving, containing, or discharging pollutants to <u>receiving waters within the Copermittees jurisdiction</u> due to illicit discharges <u>or</u> illicit connections, or other sources of non-storm water.”
71	E.2.d.2.b & c	60	Illicit Discharge Detection and Elimination	Provision E.2.d.2 states that the Copermittee must implement procedures and develop criteria for responding to and addressing incidents. Providing additional specificity in (b) and (c) is unnecessary and contradicts previous statements that Copermittees develop their own criteria. Delete b and c.	Delete the following: (b) Each Copermittee must immediately investigate and seek to identify the source(s) of discharges of non-storm water where flows are observed in and from the MS4 during the field screening and monitoring required pursuant to Provision D.1.a.(1). The investigation must include field

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
					<p>investigations to identify sources or potential sources for the discharge, unless the source or potential source has already been identified during previous investigations;</p> <p>(c) Each Copermittee must investigate and seek to identify the source(s) of non-storm water discharges from the MS4 where there is evidence of non-storm water having been discharged into or from the MS4 (e.g., pooled water). The investigation may include field investigations, reviewing Copermittee inventories, and other land use data to identify potential sources of the discharge; and</p>
72	E.2.d.4	61	Illicit Discharge Detection and Elimination	Language used in the current Orange County Permit (Provision R9-2009-0002) provides clearer language regarding follow through.	<p>Use Orange County permit language instead: If the Copermittee suspects the source of the non-storm water discharge as natural in origin (i.e. non-anthropogenically influenced) and in conveyance into the MS4, then the Copermittee must collect the data and evidence necessary to demonstrate to the San Diego Water Board that it is natural in origin; and document the rationale for why the discharge does not need further investigation. This documentation shall be included in the Annual Report.</p>
73	E.3	61	Permanent BMP Requirements for All Development Projects	No jurisdictional limitations are provided in this section. As a result, language in the subsections may be interpreted as expanding Copermittee requirements outside their MS4 jurisdiction. In addition how the Copermittees implement their program should be a decision left to the Copermittees.	<p>As shown in the attached revised Permit, revise the language, as follows:</p> <p>“Each Copermittee, <u>within their respective jurisdictions,</u> must use their land use/planning authorities to implement a development planning program...”</p>
74	E.3.	61-74	Development Planning	Permanent BMPs. This nomenclature can be confusing. “Treatment controls and structural LID BMPs” is more apt language than “permanent” to the type of BMPs in these provisions.	<p>As shown in the attached revised Permit, revise the language, as follows:</p> <p>Change “permanent” to “Treatment controls and</p>

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
					structural LID BMPs” throuought the section.
75	E.3.a	61	Permanent BMP Requirements for All Development Projects	Requiring specific types of BMPs (i.e. LID) does not allow for Copermittees to implement adaptive management practices based on the best available technology for the soil and climate types of specific developments. This is an increase in BMP requirements to all development (including redevelopment) projects as compared to the prior permit and will require additional TCBMP inspections and maintenance. It will also impact the Copermittee’s ability to maintain their infrastructure due to additional requirements, costs, and time associated with implementation. An exception should also be added for the protection of persons and property, particularly as it applies to BMPs not being implemented in waters of the U.S. or state. This language is consistent with Cal. Water Code §13269(c)(1-2). Flood control projects are intended for the protection of public safety and property and are mandated by the Orange County Flood Control Act of 1927. Requiring flood control projects to implement BMPs which are intended for traditional types of development projects is inappropriate and in most cases infeasible. Furthermore requiring flood control projects to implement BMPs may cause flood control projects to be infeasible which in many cases will increase the risk of flooding. If flooding does occur in these areas it would increase the risk of pollutants discharging into receiving waters from the flooded areas.	<p>As shown in the attached revised Permit, revise the language, as follows:</p> <p>“Each Copermittee, <u>as practical and feasible,</u> must prescribe the following BMP requirements during the planning process (i.e. prior to project approval and issuance of grading or building permits) for all development projects (regardless of project type or size), where local permits are issued, including unpaved roads, and flood management projects, <u>except emergency projects implemented for the protection of persons and property.”</u></p>
76	E.3.a.3	62	Permanent BMP Requirements for All Development Projects	Specified LID BMPs should be implemented consistent with technical guidance developed by the Copermittees.	<p>As shown in the attached revised Permit, revise the language, as follows:</p> <p>Add the following foot note to this section: “Implementation of LID BMPs shall be consistent with technical guidance developed by the Copermittees.”</p>

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
77	E.3.a.5	63	Infiltration and Groundwater Protection	Infiltration BMPs must not have a reasonable potential to cause an exceedance of an applicable groundwater quality objective as identifying that it has caused an exceedance would be difficult.	As shown in the attached revised Permit, revise the language, as follows: “Infiltration and treatment control BMPs designed to primarily function as large, centralized infiltration devices (such as large infiltration trenches and infiltration basins) must not <u>have reasonable potential</u> to cause or contribute to an exceedance of an applicable groundwater quality objective.”
78	E.3.b.1.a	64	Definition of Priority Development Project	The entire project footprint should not be required to adhere to the new development requirements as only project features that qualify as PDP projects should be subject to the PDP requirements. Other non-PDP land uses have not been identified as PDPs for a reason as they are not a significant source of pollutants. If they were a source of pollutants then they would be categorized as a PDP. Identification of PDP types has focused in the past on those land uses that are a significant source of pollutants, and so requiring non-PDP land uses to meet PDP requirements has no technical basis since they are not a significant source of pollutants there will be no significant reduction in pollutants through the implementation of PDP requirements. Furthermore this non-PDP land uses also do not represent an increase in the volume of runoff as they do not contain large amounts of impervious surfaces as if they did then they we trigger the impervious area thresholds of the PDP categories. Therefore requiring non-PDP land uses to meet PDP requirements has no technical basis since they are also not a significant source of increases of volume of runoff and therefore there will be no significant reduction in the volume of runoff through the implementation of PDP requirements.	Delete the section from the permit.

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
79	E.3.b.1.b	64	Definition of Priority Development Project	Limit to requirements not subject to prior PDP requirements as these projects already have water quality treatment and the new requirements should not apply to areas that already have water quality treatment.	As shown in the attached revised Permit, revise the language, as follows: “Where redevelopment results in an increase of more than fifty percent of the impervious surfaces of a previously existing development <u>and was not subject to previous Priority Project Development requirements</u> , the performance and sizing requirements apply to the entire development.”
80	E.3.b.1.c	64-65	Definition of Priority Development Project	Clarify that regardless of the 50% threshold, portions of the site that were subject to and meet previous Priority Development Project requirements are not subject to the new requirements. Proposed language has been modified from Ventura County NPDES MS4 Permit (Order No. 00-108).	As shown in the attached revised Permit, revise the language, as follows: Add the following: “(c) Projects where redevelopment results in an <u>increase of more than fifty percent of impervious surfaces of a previously existing development, and the existing development was subject to previous Priority Project Development Requirements, only the altered portion is subject to the new Priority Development Project requirements.</u> ”
81	E.3.b.2	65	Priority Development Project Categories	This provision establishes the scope of development projects subject to the post-construction controls. Sometimes the criterion is based on impervious area and other times it is based on surface area. Also, this is an increase in requirements from the prior permit, which was limited to much larger development projects.	In the interest of consistency, revise the criterion so that impervious area is the mechanism for determining applicability as it is an accurate surrogate for establishing project eligibility.
82	E.3.b.2.g	66	Priority Development Project Categories	This requires PDP requirements for development and redevelopment of streets, roads, highways, freeways, and residential driveways over 5,000 square feet. This requirement was present in the prior permit; however, the residential driveways requirement was added under the proposed permit and will require additional Copermittee effort for treatment control and structural LID BMP inventory, inspections, and maintenance	As shown in the attached revised Permit, revise the language, as follows: “Streets, roads, highways, <u>and freeways</u> , and residential driveways . This category is defined as any paved impervious surface that is 5,000 square feet or more used for the transportation of automobiles, trucks, motorcycles, and other <u>internal</u>

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
				verification and may have potential enforcement issues. Residential driveways should be removed from this Provision unless the Regional Board can provide a sound scientific basis for inclusion. Additionally vehicles should be defined as internal combustion vehicles as internal combustion vehicles are the source of pollutants this section is developed for.	<u>combustion</u> vehicles.”
83	E.3.b.2.i	66	Priority Development Project Categories	The term pollutant-generating is ambiguous and needs to be defined.	As shown in the attached revised Permit, revise the language, as follows: Include footnote with a definition of “pollutant generating”
84	E.3.b.3.d	66	Priority Development Project Categories	An exemption for Priority Development Projects should be provided for driveways <u>and parking lots</u> constructed with permeable surfaces.	As shown in the attached revised Permit, revise the language, as follows: “Sidewalks, bicycle lanes, <u>driveways, parking lots,</u> or trails constructed with permeable surfaces.”
85	E.3.b.3.e	66	Priority Development Project Categories	Single family residential projects should not be subject to PDP requirements as the PDP requirements would put an undue burden on single family residences where it has not been shown that they are significant source of pollutants.	As shown in the attached revised Permit, revise the language, as follows: <u>Single-family residential projects that are not part of a larger development or proposed subdivision</u>
86	E.3.b.3.f	66	Priority Development Project Categories	The Ventura County NPDES MS4 Permit, the Santa Ana Region permits for Orange County, San Bernardino County, and Riverside County, and the Greater Los Angeles MS4 Permit Staff Working Proposal provide that streets, roads, and highways, and freeways follow USEPA guidance regarding Managing Wet Weather with Green Infrastructure: Green Streets to the maximum extent practicable.	As shown in the attached revised Permit, revise the language, as follows: “(e) <u>Any paved impervious surface that is 5,000 square feet or more used for the transportation of automobiles, trucks, motorcycles, and other vehicles-that follows the USEPA guidance regarding Managing Wet Weather with Green Infrastructure: Green Streets¹ to the MEP.</u> ” <u>1: http://water.epa.gov/infrastructure/greeninfrastructure/index.cfm</u>

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
87	E.3.b.3.g	66	Definition of Priority Development Project	This provision establishes an exemption for emergency public safety projects where a delay due to a SSMP would compromise public safety, public health and/or the environment. Permittees need an exemption where if public health or safety or environmental protection is threatened the project can proceed without a SSMP.	As shown in the attached revised Permit, revise the language, as follows: <u>“(d) Emergency public safety projects in any of the Priority Development Categories may be excluded if the delay caused due to the requirement for a SSMP compromises public safety, public health and/or environmental protection.”</u>
88	E.3.c.2	66 – 68	Priority Development Project Permanent BMP Performance and Sizing Criteria	The permit should allow offsite regional groundwater replenishment as an option that is coequal with onsite retention. This promotes groundwater infiltration at a regional scale where it can have watershed-wide benefits. As currently written in the Administrative Draft, a project applicant must prove technical infeasibility before pursuing alternative compliance. This will limit the need for alternative compliance. Copermitees may not be willing to take on the risk of investing in regional groundwater replenishment projects if the permit requirements do not foster a need for such projects. Allowing onsite retention and offsite regional groundwater replenishment as coequal options provides for a higher number of project applicants paying into a fund to construct regional facilities.	As shown in the attached revised Permit, revise the language, as follows: Allow offsite regional groundwater replenishment as an option coequal with onsite retention. Suggest adding the following language: <u>“(a) Each Priority Development Project must be required to implement LID BMPs as described in Provision E.3.a.(3) or offsite regional groundwater replenishment if the following conditions apply::</u> (i) <u>The volume of stormwater runoff used to replenish groundwater must be equal to or greater than the design capture volume;</u> (ii) <u>Pollutant reduction is provided through treatment of the design capture volume at the project site.”</u>
89	E.3.c.2.b	67	Priority Development Project BMP Implementation and Oversight	Retention should not be limited to requiring retention for the 85 th percentile storm but also allow, as an option, the matching of the volumes between the pre and post-project conditions. The former will result in lesser flows necessary for downstream habitats and may be less desirable in some circumstances.	As shown in the attached revised Permit, revise the language, as follows: <u>“Each Priority Development Project must be required to implement LID BMPs that are sized and designed to retain the volume equivalent to runoff produced from a 24-hour 85th percentile storm event or to retain the difference in the volume</u>

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
					<u>between the runoff volume produced in the post-project condition as compared to the pre-project condition resulting from a 24-hour 85th percentile storm event (“design capture volume”).</u>
90	E.3.c.2.c	67	Priority Development Project BMP Implementation and Oversight	<p>This provision removes the BMP hierarchy recently adopted in both the South Orange County Permit (R9-2009-0002) and the Santa Margarita Region Permit (R9-2010-0016): retention, then biofiltration, and then conventional BMPs including offsite mitigation with no technical justification. Biofiltration provided an option for those sites where in their natural condition soils are not suitable for infiltration, and where harvesting and use is not feasible. By removing the biofiltration step from the hierarchy the existing soils of the site are no longer considered in the implementation of BMPs for the site. In the above mentioned permits, soils of a site can be factored into BMP implementation as when infiltration is not feasible due to poor soilsbiofiltration is a viable option. This provision in the Administrative Draft removes the biofiltration option and additionally requires offsite mitigation for those siteswith natural site conditions that prevent full retention from occurring onsite. This in effect punishes sites that have poor soils, which is a factor beyond the control of the site.</p> <p>Furthermore this provision as currently written will result in development being implemented in areas of well draining soils so that the retention standard can be met through infiltration. This result is antithetical to one of the primary LID site design techniques, which is to concentrate development and impervious surfaces on poor draining soils to help maintain the natural hydrology. The result of this provision will be that development will be located on well draining</p>	<p>As shown in the attached revised Permit, revise the language, as follows:</p> <p>“(c) If onsite retention <u>of the design capture volume</u> using LID BMPs is technically infeasible per Provision <u>E.3.c.(4)</u>flow-thru LID and/or conventional treatment control BMPs must be implemented to treat the portion of the design capture volume that is not retained onsite. Flow-thru LID treatment control BMPs must be designed for an appropriate surface loading rate to prevent erosion, scour and channeling within the BMP.</p> <p>(d) <u>If retention and/or equivalent pollutant removal of the design capture volume to meet E.3.c.(2)(a) or E.3.c.(2)(b) are infeasible onsite</u>Additionally project applicants must perform mitigation for the portion of the pollutant load in the design capture volume that is not retained onsite, as described in Provision <u>E.3.c.(4)</u>Error! Reference source not found..”</p>

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
				soils where meeting retention through infiltration is feasible, which could have a disastrous impact on the overall health of a watershed as land with good draining soils will be targeted for development vs being preserved in the watershed.	
91	E.3.c.(3)	68	Hydromodification Management BMP Requirements	<p>The Regional Board adopted the San Diego Hydromodification Management Plan (HMP) in July 2010. Significant work, technical analysis and input have gone into the development of the HMP and these requirements have been in effect for only 16 months. Rather than providing separate criteria, the permit should acknowledge implementation of the Regional Board approved HMP as a sufficient mechanism for meeting hydromodification requirements.</p> <p>The Orange County MS4 permit states only guidelines/criteria regarding hydromodification and refer to the HMP for detailed requirements. Similarly significant work and technical analysis and input have gone into the development of the South Orange County HMP, which would essentially become obsolete shortly after approval and beginning of implementation.</p> <p>The Regional Board has provided no technical justification for the new hydromodification provisions. The HMPs for San Diego and South Orange County are based on sound science and should be allowed time to understand if they are adequate for mitigating hydromodification impacts.</p> <p>The administrative draft proposes to lower project applicability thresholds substantially in some categories. For example, commercial and industrial projects will be lowered from one acre to 10,000 sqft or</p>	<p>As shown in the attached revised Permit, revise the language, as follows:</p> <p>“Each Copermittee must require each Priority Development Projects <u>greater than one acre</u> to implement hydromodification management BMPs as described in the Copermittees’ current HMP, as <u>applicable so that.</u>”</p> <p>Delete sections E.3.c.3(a)(i) and (ii).</p>

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
				<p>more of impervious surfaces.</p> <p>Imposing hydromodification requirements on these lower thresholds will be unduly burdensome to smaller projects.</p>	
92	E.3.c.(3)(c)	68	Hydromodification Management BMP Requirements	<p>Per the Hydromodification Management Workshop provided by the Copermittees on August 30, 2012 the expert panel identified that onsite controls are not one size fits all and in some cases it maybe more beneficial to provide stream restoration instead of onsite controls. Regional Board Staff acknowledged at the September 5, 2012 workshop that onsite controls may not be applicable in all cases. Changes to the language in this section provide an opportunity for PDPs to implement stream restoration projects or offsite mitigation or contribute to an established mitigation fund if it is identified that stream restoration or offsite mitigation would be more beneficial to watershed health</p>	<p>As shown in the attached revised Permit, revise the language, as follows:</p> <p>“If hydromodification management BMPs are technically infeasible per Provision <u>E.3.c.(4)</u> or it is identified that stream rehabilitation projects or regional mitigation projects are preferable for restoration of watershed functions, project applicants must perform mitigation for the portion of the runoff volume that is not controlled and has a reasonable potential to cause or contribute to increased potential for erosion of receiving waters downstream of the Priority Development Project, as described in Provision <u>E.3.c.(4)</u> Error! Reference source not found. or contribute to an established mitigation fund per Provision <u>(3)(d)(v)</u>.”</p>
93	E.3.c.(3)(d) New Section	69	Hydromodification Management BMP Requirements	<p>This section provides an option for Copermittees to develop an Offsite Hydromodification Mitigation program to implement a watershed based approach to hydromodification. This language provides the basis and key elements to the development of this program.</p>	<p>As shown in the attached revised Permit, revise the language, as follows:</p> <p>Add the following text:</p> <p style="padding-left: 40px;">(d) Offsite Hydromodification Mitigation Program</p> <p>Each Copermittee, in collaboration with the other Copermittees may develop and implement a watershed based approach to hydromodification management that may include the following:</p> <p style="padding-left: 40px;">(i) Analysis to identify current</p>

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
					<p>land uses and proposed future development and changes in land use.</p> <p>(ii) Development of watershed hydromodification management objectives.</p> <p>(iii) Development of criteria to identify when stream rehabilitation or regional mitigation projects are preferable to onsite hydromodification controls for PDPs, in order to restore watershed functions and processes.</p> <p>(iv) Identification of opportunities for stream rehabilitation and mitigation projects to restore watershed functions and processes</p> <p>(v) Development of a mitigation fund and program for implementation of stream rehabilitation and mitigation projects</p>
94	E.3.c.3.d.ii	69	Hydromodification Management BMP Requirements – Exemptions	Section F.1.h.(3) provides discretion to the Copermittees to identify hydromodification requirements that are not required. Hydromodification requirements are not appropriate for channels that are designed to accept increased flows from upstream	<p>As shown in the attached revised Permit, revise the language, as follows:</p> <p>“(ii) Discharges storm water runoff into conveyance channels that are engineered for the</p>

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
				<p>development, as the potential for erosion, if any, is minimal. A waiver for projects that discharge to concrete-lined or engineered channels should be included. Studies have shown that hydromodification is caused by the smaller storms up to the 10 year event. Based on these studies those engineered channels designed to convey the 10-year ultimate build out condition will therefore not experience hydromodification impacts. These channels were installed for the purpose of flood control and protection of public safety and property as historically flooding occurred where there is now development. These channels cannot be removed as they serve the important and mandated service of flood control. It is also unrealistic to think that development can be removed from the floodplain so that these flood control channels could be removed and returned to a natural state. Since removal of these channels is infeasible restoration of these channels to a natural state is also infeasible. Since there is no potential for restoration to a natural state and because these channels are designed to be flood control channels they should be allowed to convey the storm events they are designed for. Since there is no potential for removal of these channels there is no environmental benefit to requiring onsite mitigation of hydromodification when these channels are designed and engineered to accept these flows.</p>	<p><u>capacity to convey the 10-year ultimate build out condition flow and are regularly maintained to ensure flow capacity</u> whose bed and bank are concrete lined all the way from the point of discharge to water storage reservoirs, lakes, enclosed embayments, or the Pacific Ocean;”</p>
95	E.3.c.3.d.iii	69	Hydromodification Management BMP Requirements – Exemptions	<p>Studies have shown that cumulative watershed impacts are minimal in stream reaches of large depositional rivers. Analysis in the San Diego HMP demonstrated that the effects of cumulative watershed impacts are minimal in those reaches which the drainage area exceeds 100 square miles and with a 100-year design flow in excess of 20,000 cfs. An exemption for those reaches that meet these criteria should be included in</p>	<p>As shown in the attached revised Permit, revise the language, as follows:</p> <p><u>“ (iv) Discharges to large rivers where large rivers are defined as reaches for which the contributing drainage area exceeds 100 square miles and with a 100-year design flow in excess of 20,000 cfs.”</u></p>

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
				the exemption provisions of the permit.	
96	E.3.c.3.d.iv	69	Hydromodification Management BMP Requirements – Exemptions	Infill redevelopment projects offer an opportunity for improvement in water quality. Due to the usual tight constraints and limited footprint of infill development projects implementing onsite hydromodification controls is often infeasible. In many cases projects will not be able to meet the hydromodification criteria and so will choose “greenfield” developments where meeting hydromodification criteria are more feasible. To encourage infill development over “urban sprawl” and “greenfield” development, a hydromodification exemption should be provided for infill development projects. This will also provide the benefit of improving water quality as the water quality/LID requirements will still be required to be met. Overtime infill redevelopment projects will address the significant issue of improving water quality from existing development. Without this exemption redevelopment for infill projects will likely not occur as implementing onsite hydromodification will just be too expensive for these types of projects and so the benefits meeting the water quality/LID requirements will not be realized at these sites. Criteria for what projects qualify for the infill development exemption shall be developed by each of the Permittees as part of updates to their HMPs.	<p>As shown in the attached revised Permit, revise the language, as follows:</p> <p><u>“(v) Discharges from infill redevelopment projects that meet criteria to be established in the Permittees’ HMPs; or”</u></p>
97	E.3.c.3.d.v	69	Hydromodification Management BMP Requirements – Exemptions	Flood control projects are intended for the protection of public safety and property and are mandated by the Orange County Flood Control Act of 1927. Requiring flood control projects to implement hydromodification controls intended for traditional types of development projects is inappropriate and in most cases infeasible. Furthermore requiring flood control projects to implement hydromodification controls may cause flood control projects to be infeasible which may increase the risk of flooding. If flooding does occur in these areas it	<p>As shown in the attached revised Permit, revise the language, as follows:</p> <p><u>“(vi) In-stream flood control and restoration projects.”</u></p>

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
				<p>would increase the risk of pollutants discharging into receiving waters from the flooded areas.</p> <p>In-stream restoration projects are designed to restore beneficial use of streams and channels. These projects also serve as a potential option for restoring impacts from hydromodification. It is counterproductive to require mitigation of a restoration project.</p>	
98	E.3.c.4.a.iv	69	Alternative Compliance for Technical Infeasibility	Add additional language to encourage strategically important regional BMP projects	<p>As shown in the attached revised Permit, revise the language, as follows:</p> <p><u>“(iv) The project applicant is required to perform mitigation described in Provision E.3.c.(4)(c) and has the option or ability to contribute to a regionally important mitigation project/program as defined in the Water Quality Improvement Plan that would address strategic high-priority water quality protection and/or more-direct restoration of beneficial uses in receiving waters than if achieved if the Priority Development Project had fully implemented the retention LID and hydromodification management BMP requirements under Provisions E.3.c.(2) and E.3.c.(3) onsite.”</u></p>
99	E.3.c.4.b.i.	70	Alternative Compliance for Technical Infeasibility: Criteria	Contaminated groundwater at a project development site should also be included as reason for technical infeasibility.	<p>As shown in the attached revised Permit, revise the language, as follows:</p> <p>“(i) Locations that cannot meet the infiltration and groundwater protection requirements in Provision E.3.a.(5) due to the presence of shallow bedrock, contaminated soils, <u>contaminated groundwater</u>, near surface groundwater, underground facilities, or utilities;”</p>
100	E.3.c.4.c	70	Alternative Compliance for	The permit should clearly provide Copermittees’ with the option to develop an alternative compliance	<p>As shown in the attached revised Permit, revise the language, as follows:</p>

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
			Technical Infeasibility: Mitigation	program that fits their specific program needs.	<p>“Priority Development Projects that meet the Copermittee’s technical infeasibility criteria developed pursuant to Provision E.3.c.(4)Error! Reference source not found. must be required to mitigate for the increased flow rates, increased flow durations, and/or increased pollutant loads expected to be discharged from the site. For pollutant load in the volume of storm waterCopermittees may establish an offsite mitigation program that requires the developer to mitigate for the water quality equivalencenot retained onsite with retention LID BMPs, or increased potential erosion of downstream receiving waters not fully controlled onsite with hydromodification management BMPs, the Copermittee must require the project applicant to either 1) implement an offsite mitigation project, and/or 2) provide sufficient funding for a public or private offsite mitigation project via a mitigation fund.”</p>
101	E.3.c.4.c.ii	71	Mitigation Project Types	<p>Groundwater recharge projects are a viable offsite mitigation project as they promote and integrated water resources approach and should be listed as an option for offsite mitigation.</p> <p>In-stream rehabilitation projects need the flexibility to incorporate a variety of materials to be effective at restoring beneficial uses and stream function. Limiting the types of materials that can be used will prevent many project from being implemented. Regional Board staff will have an opportunity to review the materials used in all stream restoration projects through the 401 certification.</p>	<p>As shown in the attached revised Permit, revise the language, as follows:</p> <p>“Offsite mitigation projects mustmay include, where applicable and feasible, retrofitting opportunities and stream and/or habitat rehabilitation or restoration opportunities identified in the Water Quality Improvement Plans, identified pursuant to Provision B.3.a. Other offsite mitigation projects may include green streets or infrastructure projects, <u>groundwater recharge projects</u>, or regional BMPs upstream of receiving waters. In-stream rehabilitation or restoration measures to protect</p>

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
					<p>or prevent adverse physical changes to creek bed and banks must not include the use of nonnaturally occurring hardscape material such as concrete, riprap, or gabions. Project applicants seeking to utilize these alternative compliance provisions may propose other offsite mitigation projects, which the Copermittees may approve if they meet the requirements of Provision <u>E.3.c.(4)</u>Error! Reference source not found..</p>
102	E.3.c.4.c.iii	71	Mitigation Project Timing	<p>Offsite mitigation projects being implemented by a PDP should be completed upon completion of the PDP project, however the Copermittees should be provided the opportunity to develop a timing scheme if they choose to develop a Copermittee offsite mitigation program.</p>	<p>As shown in the attached revised Permit, revise the language, as follows:</p> <p>“The Copermittee and/or project applicant must develop a schedule for the completion of offsite mitigation projects, including milestone dates to identify, fund, design, and construct the projects. <u>PDP implemented</u>Offsite mitigation projects must be completed upon the granting of occupancy for the first project that contributed funds<u>completion of the PDP</u>, unless a longer period is authorized by the San Diego Water Board. <u>The timing of mitigation projects associated with a Copermittee offsite mitigation program will be developed by the Copermittees as part of developing their offsite mitigation program.</u>“</p>
103	E.3.e.2.a	73	Priority Development Project BMP Implementation and Oversight	<p>Removal of the term “continuously” is suggested so ensure Copermittees do not have to allocate resources for incessant updates to the database. Language should also be added to clarify that, although the database will be watershed-based, each Copermittee is responsible only for inventory under their jurisdiction.</p>	<p>As shown in the attached revised Permit, revise the language, as follows:</p> <p>“Each Copermittee must develop and continuously<u>regularly</u> maintain a watershed-based</p>

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
					database to track and inventory all Priority Development Projects and associated permanent treatment control and structural LIDBMPs within their jurisdiction. ...”
104	E.4	75	Construction Management	The current language does not provide clarity on when the construction management program is applicable or what the Copermittees responsibilities are under the program.	Revise section to clarify Copermittees responsibilities and applicability of the program.
105	E.4.a.	75	Construction Management	Include the word “sediment” in this section as construction stormwater management requires an effective combination of erosion and sediment controls. Remove the word “equivalent” as this term is ambiguous as there is no set standard for SWPPPs and so equivalency is undefined.	Revise the section include the word “sediment” in the sections that identify erosion control plans and remove the word “equivalent” related to erosion and sediment control plans.
106	E.4.a.4	75	Project Approval Process	Copermittees are required to verify that the project applicant has obtained coverage under applicable permits. The US ACOE requires all other permits to be in place prior to issuing the 404 permit. It is not possible to have the 404 permit prior to issuing a grading or building permit. The requirement from the 4 th Term permit was to verify coverage under the Construction General Permit.	As shown in the attached revised Permit, revise the language, as follows: “Verify that the project applicant has obtained coverage under applicable permits, including, but not limited to the Construction General Permit, Clean Water Act Section 401 Water Quality Certification and Section 404 Permit, and California Department of Fish and Game Streambed Alteration Agreement. ”
107	E.4.b.(1)	75	Construction Management	The current language requires monthly update of construction sites. Quarterly update of the inventory is more appropriate to track construction sites as this is a significant burden on the Copermittees. These sites are tracked through SMARTS already and more frequent tracking is not necessary.	As shown in the attached revised Permit, revise the language, as follows: “(1) Each Copermittee must maintain, and update at least monthly quarterly, a watershed-based inventory of all construction sites requiring construction, grading, or building permits within its jurisdiction.”
108	E.5	79	Existing Development	After years of implementation of existing development programs, the Copermittees have the knowledge and	Replace the current provision E.5 with the proposed Provison E.5 provided in the attachment.

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
			Management	experience to implement programs consistent with the goals of the Order and the adaptive management process required under the Order. In order to accomplish this goal, the Copermittees have reorganized and provided a concise existing development section as an alternative to the current provision E.	
109	E.5	79	Existing Development Management	Provision E.5.a mixes types of facilities, areas, and activities that should be included in the inventory and the information that should be included within the database regarding each type of facility, area, and activity.	If the current provision E.5 is not replaced with the proposed provision E.5, then the reorganization of this provision is recommended. Specific edits for this section are provided below.
110	E.5.a	79	Existing Development Management	Regulation of residential sites, while not entirely new, will increase cost, responsibility, and liability as currently presented due to the magnitude of increased regulatory requirements. There will be significant enforcement issues, particularly with the residential portion. Adding the term “reasonable potential to discharge” allows flexibility for the Copermittees to determine priorities. Practically all existing properties have the potential to generate pollutant loads and the inspection program will be ineffective and impractical to implement as written. The focus needs to be on significant pollutant load discharges so inspections and enforcement can actually succeed in receiving water pollutant load reductions versus spending an exhaustive amount of time and money inspecting sites that discharge no pollutant loads, but have the potential to generate minimal loads.	If the current Provision E.5 is not replaced, modify as follows: “Each Copermittee must maintain an updated watershed-based inventory and/or map of its existing development that <u>has the reasonable potential to</u> may potentially generate <u>discharge a pollutant load into and from</u> the MS4.”
111	E.5.a.4, E.5.a.7	79	Existing Development Management	Minor grammatical corrections.	If the current Provision E.5 is not replaced, modify as follows: “(4) Identification if a business is a <u>of mobile businesses;</u> ”

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
					(7) Identification if an area is a Common Interest Areas (CIAs) / Home Owner Associations (HOAs), and mobile home parks;”
112	E.5.a.13	80	Existing Development Management	The continual requirement for map updating is excessive. Regularly updated maps should be sufficient for up-to-date information without requiring Copermittees to expend excessive resources. Expand to highlight what has already been accomplished by permittees.	If the current Provision E.5 is not replaced, modify as follows: “A continually regularly updated map showing the location of inventoried existing development, watershed boundaries, water bodies, <u>and retrofits implemented and pollutants generated at the inventoried existing development and/or rehabilitations implemented at channels and/or receiving waters.</u> ”
113	E.5.b	80	Retrofitting and Channel Rehabilitation in Areas of Existing Development	This is a new requirement, as compared to the prior permit, which only requires an evaluation of channels that may be retrofitted. Requiring Municipalities to take responsibility for entire stream channels and rehabilitate them to restore impaired beneficial uses of streams is beyond the responsibility that MS4 operators have over MS4 discharges. MS4 operators are not the sole discharger to/cause of impaired channels. Additionally in many instances the channels are flood control facilities which may be required to sustain the existing surrounding development. In many instances, channel rehabilitation of channels may not be feasible and other options for improving discharge water quality would need to be considered.	Remove this Provision entirely or include it as an option for compliance as stated below: “...and rehabilitate <u>channels and/or receiving waters</u> to restore impaired beneficial uses of streams, <u>as feasible.</u> ”
114	E.5.b.1	80	Retrofitting and Channel Rehabilitation in Areas of Existing Development	Minor modifications to language to better encompass creek restoration projects.	As shown in the attached revised Permit, revise the language, as follows: “Each Copermittee must identify areas of existing development as candidates for retrofitting, and <u>channels and/or receiving waters in areas of</u>

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
					existing development as candidates for rehabilitation within its jurisdiction, as feasible. Areas of existing development must be selected based on a likelihood that retrofitting and channel rehabilitation will address the highest water quality priorities identified in the Water Quality Improvement Plan prepared pursuant to Provision B.”
115	E.5.b.2	80	Retrofitting and Channel Rehabilitation in Areas of Existing Development	Minor modifications to language to acknowledge that benefits of creek restoration may occur immediately downstream.	As shown in the attached revised Permit, revise the language, as follows: “The evaluation must also include an assessment of the channels <u>and/or receiving waters</u> within its jurisdiction where channel rehabilitation will improve beneficial uses of streams within <u>or immediately downstream of the Copermittee’s jurisdiction.</u> ”
116	E.5.b.3	80	Retrofitting and Channel Rehabilitation in Areas of Existing Development	The proposed permit requires the Copermittees to “encourage” landowner retrofit to private property through the “Copermittee’s use of subsidies, penalties, or other incentives.” Copermittees will face serious enforcement (and possibly legal) issues if they attempt to penalize private landowners for failing to expend their own time, effort, and money retrofitting properties that landowners had no intention of altering in the first place. As this is a first time requirement to implement channel restoration projects, the logical first step in retrofitting is to identify projects and prioritize them for implementation based on the highest benefit to water quality and beneficial uses.	As shown in the attached revised Permit, revise the language, as follows: “Each Copermittee must implement <u>prioritize for implementation</u> retrofit and channel rehabilitation projects, <u>as feasible</u> , that address the highest water quality priorities identified in the Water Quality Improvement Plan pursuant to Provision B.3.a. <u>Ranking may also take into account project feasibility and cost effectiveness.</u> The Copermittee must should encourage private landowners to implement retrofit <u>designs, at minimum, through the use of public education and outreach, and channel rehabilitation projects whenever practical.</u> Private landowners should be encouraged through the Copermittee’s use of subsidies, penalties, or other incentives.”

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
117	E.5.b.4	81	Retrofitting and Channel Rehabilitation in Areas of Existing Development	Evaluation of flood control facilities for retrofit for water quality should occur as a part of maintenance for these facilities.	As shown in the attached revised Permit, revise the language, as follows: “Each Copermittee must evaluate the flood management and flood control devices and structures in its inventory to determine if it is feasible to retrofit the device or structure, to provide additional pollutant removal from storm water. A Copermittee must consider the highest water quality priorities identified in their Water Quality Improvement Plan as part of each assessment. <u>Evaluation of facilities may occur as a part of routine maintenance of these facilities.</u> ”
118	E.5.b.5	81	Retrofitting and Channel Rehabilitation in Areas of Existing Development	See comments for Provision E.5.b. and E.5.b.3.	As shown in the attached revised Permit, revise the language, as follows: “Where retrofitting and channel rehabilitation within specific areas of existing development <u>under the Copermittees jurisdiction</u> are determined to be infeasible to restore and protect receiving waters from the highest water quality priorities identified in the Water Quality Improvement Plan, each Copermittee must <u>may</u> identify, develop, and implement <u>prioritize for implementation</u> regional retrofitting and channel rehabilitation...”
119	E.5.b.6	81	Existing Development Management	This provision gives the Copermittees flexibility in reallocating resources with the approval of the Regional Board Executive Officer to implement retrofit or rehabilitation projects.	As shown in the attached revised Permit, revise the language, as follows: Add the following: “Upon Regional Board Executive Officer approval the Copermittees may reallocate resources in the WQIPs for retrofit and rehabilitation project(s).”
120	E.5.c.1	81	Existing Development	Required use of pollution prevention methods will be extremely difficult to enforce, particularly if residential	If the current Provision E.5 is not replaced, modify as follows:

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
			Management	land uses are included.	“Each Copermittee must require <u>promote</u> the use of pollution prevention methods by the inventoried existing development <u>through public outreach.</u> ”
121	E.5.c.2	81	Existing Development Management	See comment E.5.a.	If the current Provision E.5 is not replaced, modify as follows: “Each Copermittee must designate a minimum set of BMPs required for all inventoried existing development <u>with the reasonable potential to discharge pollutant loads to their MS4</u> , including special event venues, that have the potential to generate pollutants. ”
122	E.5.c.3	81	Existing Development Management	See comment E.5.a.	If the current Provision E.5 is not replaced, modify as follows: “Each Copermittee must implement, or require the implementation of, designated BMPs at inventoried existing development that have the <u>reasonable potential to generate discharge pollutant loads from their MS4.</u> ”
123	E.5.c.4	82	Existing Development Management	See comment E.5.a.	If the current Provision E.5 is not replaced, modify as follows: “Each Copermittee must operate and maintain, or require the operation and maintenance of designated BMPs at all inventoried existing development <u>that have been identified by the Copermittee as having the reasonable potential to discharge pollutant loads to their MS4.</u> ”
124	E.5.c.4.b	82	Existing Development Management	Clarification is necessary that Copermittees are only responsible for the work conducted within their jurisdiction and under their authority.	If the current Provision E.5 is not replaced, modify as follows: “Each Copermittee must implement procedures during the operation and maintenance of public streets, unpaved roads, paved roads, and paved highways and freeways, <u>conducted under their authority and within their jurisdiction</u> , that will reduce the contribution of storm water pollutants to

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
					the MEP and effectively prohibit <u>the discharge of non-storm water pollutants from the MS4 to receiving water bodies...</u> "
125	E.5.c.5	82	Existing Development Management	See comment E.5.a.	If the current Provision E.5 is not replaced, modify as follows: "...associated with the application, storage, and disposal of pesticides, herbicides and fertilizers from inventoried existing development into and from the MS4s. <u>identified by the Copermittee as having the reasonable potential to discharge pollutant loads into or from their MS4.</u> "
126	E.5.d	83	Existing Development Management	See comment E.5.a. In addition to the comment under E.5.a, the proposed language will also limit the number of inspections required.	If the current Provision E.5 is not replaced, modify as follows: "Each Copermittee must conduct inspections of inventoried existing development <u>that have been identified by the Copermittee as having the reasonable potential to discharge pollutant loads from their MS4</u> to ensure compliance with applicable local ordinances and permits, and the requirements of this Order."
127	E.5.d.1	83	Existing Development Management	See comment E.5.a. Proposed language will also limit the number of inspections required and allow effective self-certifications and third party inspections to be utilized. Additional language added to clarify expectation of land use change. Inspections due to changes in property ownership are not realistic as it is not possible for a municipality to track and be aware of all property ownership changes.	If the current Provision E.5 is not replaced, modify as follows: "...At a minimum, inventoried existing <u>municipal, industrial, commercial, and residential-association development that has been identified by the Copermittee as having the reasonable potential to discharge pollutant loads to and from their MS4</u> must be inspected once every five years <u>during the permit term. Effective self-certification or third-party inspection programs may be utilized for this purpose.</u> Inventoried existing development must also be inspected within 12 <u>six</u> months of any change in property ownership after any redevelopment or land use or change <u>change</u> associated with a potential increase in pollutant

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
					generating activity...”
128	E.5.d.2.d through E.5.d.2.f	83-84	Existing Development Management	The addition of “if present” is necessary for clarification.	If the current Provision E.5 is not replaced, modify as follows: “(d)Visual observations of actual non-storm water discharges, <u>if present</u> ; (e)Visual observations of actual or potential discharge of pollutants, <u>if present</u> ; (f)Visual observations of actual or potential illicit connections, <u>if present</u> ; and...”
129	E.5d.3.f	84	Existing Development Inspection Records	Photo documentation should not include a requirement to obtain and keep photographic records of active compliance. Photo documentation should be limited to cases of non-compliance in the interest of file space, size, and information management.	If the current Provision E.5 is not replaced, modify as follows: Delete the following: “ Photo documentation of observed actions or BMPs to reduce pollutants in stormwater runoff to the MEP and actions to effectively prohibit non-storm discharges into the storm drain. ”
130	E.5.d.3.e and g	84	Existing Development Inspection Records	<p>It is unnecessary to formally describe all of the activities and actions being conducted at each site that assist in reducing pollutants and non-stormwater discharges. It is more efficient and effective to focus on those items that need to be improved or added in order to ensure that the site is being managed correctly. This is standard protocol for inspection programs.</p> <p>Per the language within Provision B and the intro to Provision E, the JRMPs will already be focused on those sources and activities that have a reasonable potential to contribute the pollutants of concern that are of the highest priority within the WQIPs. Therefore this paragraph is unnecessary.</p> <p>Combine these three paragraphs to simplify and better convey requirement.</p>	<p>If the current Provision E.5 is not replaced, modify as follows: Delete the following Description of actions to reduce pollutants in storm water runoff to the MEP and actions to effectively prohibit non-storm discharges into the MS4 at the inventoried existing development</p> <p>If the facility, area, and/or activity has been designated or identified as a contributor to the highest water quality priorities identified in the Water Quality Improvement Plan, then the inspection report must include a description of any specific or additional actions taken to reduce or eliminate the contribution of the facility, area, and/or activity to the highest water quality priorities;</p>

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
					and replace with the following: <u>“Verification of compliance with designated BMPs, as applicable.”</u>
131	E.5.e	85	Existing Development Management	Limiting language should be included for the Copermittee’s jurisdiction. The existing development inventory and enforcement should be limited to development with the reasonable potential to discharge pollutants, avoiding inventory, inspection, and enforcement of every developed property within their jurisdiction. Time and money will be better spent focusing on development that may actually contribute to pollutant loads in the MS4.	If the current Provision E.5 is not replaced, modify as follows: “Each Copermittee must enforce its legal authority established pursuant to Provision <u>E.1</u> for all its inventoried existing development <u>identified by the Copermittee as having the reasonable potential to discharge pollutant loads from the MS4 within their jurisdiction</u> , as necessary, to achieve compliance with the requirements of this Order, in accordance with its Enforcement Response Plan pursuant to Provision <u>E.6</u> .”
132	E.6	87	Enforcement Response Plans	Enforcement response plans are already codified in Copermittees’ municipal codes. This section increases requirements for enforcement response and should be made more concise.	Recommend replacement of Enforcement Response Plan Provision with Copermittee streamlined provision, contained in the attachment provided.
133	E.6	85	Existing Development Management	Acknowledge and allow existing and equivalent enforcement plans such as Orange County’s Enforcement Consistency Guide to meet intent of provision.	If the current Provision E.6 is not replaced, modify as follows: “The Enforcement Response Plan must include the protocols for progressively stricter responses, including timeframes allowed for corrections of problems, and for various field violation scenarios. <u>Copermittees may continue to utilize and implement established, equivalent guidelines and procedures for enforcement .</u> ”
134	E.6.a.2.a	85	Existing Development Management	Enforcement may not be feasible “immediately.”	If the current Provision E.6 is not replaced, modify as follows: “...the Water Quality Improvement Plan, then high level enforcement actions must begin at a high level immediately issued , and subsequent high level...”
135	E.6.b.3.a	86	Existing	Permit should acknowledge the responsibilities of other	If the current Provision E.6 is not replaced,

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
			Development Management	entities and encourage coordination (e.g., Caltrans, water districts).	modify as follows: “(a) Immediately enforce its legal authority, <u>or notify the entity with applicable legal authority</u> , to eliminate controllable sources of non-storm water and illicit discharges or connections upon identifying the source; and”
136	E.6.b.5	87	Enforcement Response Plans	Two weeks compliance is an extremely short time period for maintenance of BMPs and reasonable only if the next rain event is within that two week period. One month is much more reasonable and realistic for confirmation of BMP maintenance.	If the current Provision E.6 is not replaced, modify as follows: “For violations of permanent BMP maintenance requirements, all violations must be corrected in a timely manner with the goal of correcting them before the next rain event but no longer than <u>30 calendar business days</u> after the violations are discovered. If more than 40 <u>30</u> calendar business days are required for compliance, a rationale must be recorded in the electronic database or equivalent tabular system used to track permanent BMP inspections.”
137	E.6.c.2	87-88	Enforcement Response Plans	Criminal penalties should be limited to intentional or negligent acts.	If the current Provision E.6 is not replaced, modify as follows: The enforcement process must include, at a minimum, appropriate sanctions to compel compliance, such as: (a) Verbal and written notices of violation; (b) Cleanup requirements; (c) Fines; (d) Bonding requirements; (e) Administrative and criminal <u>(if intentional or negligent)</u> penalties; (f) Liens;

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
					(g) Stop work orders; and (h) Permit and occupancy denials.
138	E.6.c.4	88	Enforcement Response Plans	See comment E.6.b.5.	Change 10 business days to 30 calendar days.
139	E.6.d.1	88	Enforcement Response Plans	Use consistent terminology	If the current Provision E.6 is not replaced, modify as follows: “...(as defined in the Copermittee’s Enforcement Response Plan) to a construction site that <u>significantly impacts</u> poses a significant threat to water quality as a result of violations or other...”
140	E.7	88	Public Education and Participation	Language was provided in this section to identify that the Permittees will develop the public education program based on the highest water quality issues of concern identified within the WQIPs.	See corresponding edits within Provision E.7
141	E.8	89	Fiscal Analysis	Unclear why the fiscal analysis has expanded beyond what is required in Orange County’s current permit.	See corresponding edits within Provision E.8
F. Reporting					
142	F.1 & F.2	90	Reporting	Changes for consistency with Provision II.B.6.	As shown in the attached revised Permit, revise the language, as follows: Change timeframe from 12 to 18 months.
143	F.1	90	Reporting	Minor changes incorporated for consistency with Provision II.B.	As shown in the attached revised Permit, revise the language, as follows: Incorporate timeline consistent with Provision B.
144	F.1	90	Reporting	All references to “Regional Clearinghouse” deleted and replaced with reference to Provision F.4. See comment re: F.4 below.	As shown in the attached revised Permit, revise the language, as follows: “Water Quality Improvement Plans must be made available as on the Regional Clearinghouse required pursuant to Provision F.4.”
145	F.2.a	90	Reporting	Additional language is necessary to clarify that modification of program elements of the jurisdictional runoff management program will include rationale for any changes to program elements prescribed in Provision E.	As shown in the attached revised Permit, revise the language, as follows: Add “Jurisdictional Runoff Management Program document updates that modify program elements from the requirements of Provision E must provide

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
					rationale for the modifications within the update documents.” Add similar language for the BMP design manual and the Water Quality Improvement updates.
146	F.2.b	90	Reporting	See F.2.a.	See F.2.a.
147	F.2.c	90	Reporting	See F.2.a.	See F.2.a.
148	F.3.b	91	Reporting	Clarification as to a date when the annual reporting period will begin under the permit is necessary.	As shown in the attached revised Permit, revise the language, as follows: “...The first Annual Report must be prepared for the reporting period beginning July 1 after adoption of the permit, and upon San Diego Water Board Determination that the date the San Diego Water Board determines that...”
149	F.3.b.1.e and F.3.b.2	92	Reporting	Unclear how form will improve upon existing reporting processes. Form seems to restrict reporting and require the compilation of cumbersome and uninformative numbers such as “number of existing developments in residential inventory.” Permittees should be allowed to continue current reporting formats. Either delete the form or make optional.	Delete the following language: “(a) — A completed Jurisdictional Runoff Management Program Annual Report Form (Attachment D) for each Copermittee in the Watershed Management Area, certified by a Principal Executive Officer, Ranking Elected Official, or Duly Authorized Representative.” “(2) — Each Copermittee must complete and submit a Jurisdictional Runoff Management Program Annual Report Form (Attachment D) no later than October 31 of each year until the first Annual Report is required to be submitted.”
150	F.4	93	Reporting	The Copermittees require language clarification that the regional clearinghouse may be maintained by another agency.	As shown in the attached revised Permit, revise the language, as follows: Add a footnote: “The Copermittee may elect to develop and maintain the clearinghouse(s) provided by other Copermittees or agencies.”
151	F.4	93	Reporting	Delete all references to a Regional Clearinghouse. Copermittees have been and will continue to make key	As shown in the attached revised Permit, revise the language, as follows:

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
				documents and information related to permit compliance available to the public. Copermittees should not be required to invest time and resources into a potentially expensive and time consuming clearinghouse that would require coordination amongst all permittees. The benefit of a clearinghouse does not appear to outweigh the resources necessary to make it possible.	<p>Delete all references throughout permit to “Regional Clearinghouse” and replace with reference to comply with Provision F4. Additionally, modify language as follows: “4. <u>Regional Clearinghouse Mechanism for Data and Information Sharing</u></p> <p>The Copermittees must <u>identify and implement a mechanism to develop, update, and maintain an internet-based Regional Clearinghouse that can be used to store, disseminate, and share the Copermittees’ Water Quality Improvement Plans, Annual Reports, jurisdictional runoff management program documents, monitoring data, special studies, and any other pertinent data or information generated by the Copermittees during the implementation of this Order. Monitoring data collected pursuant to Provision D must be uploaded to CEDEN, with links to the uploaded data available on the Regional Clearinghouse. The Regional Clearinghouse may be linked to other internet-based data portals and databases where the original documents and data are stored. The Regional Clearinghouse Copermittees must make this information be available and accessible to members of the public. The Regional Clearinghouse mechanism for sharing Copermittee data and information must be developed and made available to the public no later than 12 months after the adoption of this Order.”</u></p>
152	F.5	93	Reporting	See F.4.	Add similar language from F.4.
G. Principal Watershed Copermittee Responsibilities					
153	G	96	Principal Watershed	Coordinating and developing, with the other Copermittees, the requirements of Provisions F.3.c , F.4 ,	Remove requirement that Principal Copermittee can only be Principal Copermittee for 2 watersheds.

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
			Copermittee Responsibilities	and F.5.b of this Order.	Clarify that all Copermittees have some level of commitment, not just the Principal Watershed Copermittee.
H. Modification of Programs					
154	H	97	Modification of Programs	Modifications of programs are allowed under the WQIP as part of the iterative process and adaptive management. Language should be added to that effect or there may be annual amendments to the Order.	“Proposed modifications <u>outside of the WQIP process</u> that are not minor require amendment of this Order in accordance with this Order’s rules, policies, and procedures.”
I. Standard Permit Provisions and General Provisions					
				N/A	None.
Attachment A. Discharge Prohibitions					
155	Attachment A, 2	A-2	Attachment B to State Water Board Resolution 2012-001X	The Resolution has been adopted as 2012-0012 and should be updated accordingly throughout the document. Order should be incorporated by reference instead duplication.	Reference adopted SWRCB Resolution 2012-0012.
Attachment B. Standard Permit Provisions and General Provisions					
156	Attachment B	B1-B5	Standard Permit Provisions and General Provisions	This attachment incorporates the standard NPDES permit provisions as identified in 40 CFR 122.41. Although correctly transposed from the regulations the provisions are obviously developed for a traditional point source permit (i.e. wastewater permit). As such there are a number of standard provision that pose challenges to the Copermittees to comply with. Clarification is requested on a number of the provisions.	See specific changes noted below.
157	Attachment B, 1.m	B-7	Bypass	This provision requires the Copermittees to notify the Regional Board whenever an anticipated or unanticipated bypass will occur. Given the nature of storm events and the fact that stormwater treatment BMPs include bypass provisions to protect the BMP integrity it would appear that the Copermittees should notify the Regional Board anytime a storm is predicted	Delete this provision.

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
				to ensure compliance with the provision (whether anticipated or unanticipated). This provision was crafted for typical wastewater discharges and has little relevance to stormwater.	
Attachment C. Acronyms, Abbreviations and Definitions					
158	Attachment C	C1-C10	Definitions	<p>Definitions need to be added for: properly designed, rehabilitation, and retrofit. As currently written, the permit authorizes subjective broad authority and deference to the Regional Board in interpretation of the definitions, if not included.</p> <p>Minor clarifications and grammatical corrections are also included.</p>	Suggested definitions are provided in the strikeout.
159	Attachment C	C-4	Definitions - Infiltration	The current definition only makes reference to infiltration of water into the sewer system. This definition should also include a traditional definition of infiltration.	<p>As shown in the attached revised Permit, revise the language, as follows:</p> <p>Add: <u>In the context of low impact development, infiltration may also be defined as the percolation of water into the ground. Infiltration is often expressed as a rate (inches per hour), which is determined through an infiltration test.</u></p>
160	Attachment C	C-6	Definitions – MS4	The addition of CWA language to the definition of MS4 limits Copermitees’ responsibilities to within their jurisdiction and strengthens support that Copermitees are not responsible for discharges in MS4s that they do not operate.	<p>As shown in the attached revised Permit, revise the language, as follows:</p> <p>Add: <u>“Co-permittees need only comply with permit conditions relating to discharges from the municipal separate storm sewers for which they are operators.” 40 CFR §122.21(a)(vi).</u></p>
161	Attachment C	C-10	Definitions – Waters of the state	Current permit language, citing the California Water Code, presupposes that all portions of the MS4 are considered waters covered by the definition of waters of the state, “Any water, surface or underground, including saline waters within the boundaries of the State [CWC Provision 13050 (e)].” This language	<p>“Waters of the State - Any water, surface or underground, including saline waters within the boundaries of the State [CWC Provision 13050 (e)]. The definition of the Waters of the State is broader than that for the Waters of the United States in that all water in the State is considered to</p>

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
				should be limited based on the intent of the definition (natural water sources) and should not include dry man-made structures that collect runoff for the sole purpose of flow volume/velocity and/or pollutant reduction.	be a Waters of the State regardless of circumstance or condition . Under this definition, <u>portions of a MS4 may be</u> is always considered to be a Waters of the State. <u>However, man-made portions of the MS4 constructed for the sole purpose of flow and/or pollutant reduction will not be considered Waters of the State.</u> "
162	Attachment C	C-11	Definitions – Wet Weather	Grammatical edits – words appear to be missing from the definition	Edit as follows: “Wet Weather – Weather is considered wet if there is a storm event of 0.1 inches and greater and the following <u>preceded by 72 hours of dry weather.</u> ”
Attachment D. Jurisdictional Runoff Management Program Annual Report Form					
163	Attachment D			See previous comments in F.3.b	Delete form or make optional.
Attachment E. Specific Provisions for Total Maximum Daily Loads Applicable to Order No. R9-2012-0011					
164	Attachment E	E-1 to E-30	Specific Provisions for Total Maximum Daily Loads Applicable to Order No. R9-2012-0011	Most requirements are outlined already in the TMDLs and the redundancy of this Attachment is unnecessary. In fact, Attachment E <i>adds</i> many TMDL requirements not provided in the TMDL Resolutions, circumventing the TMDL public process. Implementation will be inconsistent with previously adopted resolutions and CLRPs and MPs already drafted, submitted, approved, and/or implemented.	On page E-1, reword to clarify that TMDL implementation must be incorporated into the WQIP and Monitoring sections by the Copermittees and reference the Resolution Numbers in the TMDL list and add recommended compliance language per comments below.
165	Attachment E	E-1	Specific Provisions for Total Maximum Daily Loads Applicable to Order No. R9-2012-0011	The Rainbow Creek TMDL for Total Nitrogen and Phosphorous does not include Wasteload Allocations for the County of San Diego Copermittees. The TMDL only contains Load Allocations. Load allocations should not be implemented through an NPDES permit. It is in appropriate to simply “re-name” the Load Allocations as Wasteload Allocations.	Strike the following TMDL from Attachment E in its entirety: Total Maximum Daily Loads for Total Nitrogen and Total Phosphorus in Rainbow Creek Watershed
166	Attachment	E-1	Specific		

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
	E	to E-30	Provisions for Total Maximum Daily Loads Applicable to Order No. R9-2012-0011	<p>State and federal law do not require the use of numeric effluent limitations for MS4 permittees, but rather encourage flexible implementation of best management practices through an iterative process. Specifically, the choice to include either management practices or numeric limitations in MS4 permits is within the regulatory agency’s discretion, and on the question of whether MS4 permits must contain numeric effluent limitations, the court upheld EPA’s use of iterative BMPs in place of numeric effluent limitations for storm water discharges. (See <i>Defenders of Wildlife v. Browner</i>, 191 F.3d 1159, 1166-1167 (9th Cir. 1999)⁴</p> <p>Given the challenges with meeting the numeric WQBELs (even with the implementation of a comprehensive suite of BMPs) and the flexibility allowed by State and federal regulations and guidance, a BMP-based WQBEL approach should be allowed for complying with TMDLs. Removing the numeric WQBELs is not proposed. Rather, inclusion of a WQIP-based “compliance path” is recommended.</p> <p>The WQIPs can and should be used as the basis for establishing WQBELs expressed as BMPs. The WQIPs can satisfy the necessary elements of BMP-based WQBELs. For example, the WQIPs would meet the requirements described in the 2010 EPA memo (which updated key aspects of the 2002 memorandum) regarding federal expectations for incorporation of TMDLs WLAs into NPDES stormwater permits as BMP-based WQBELs.</p>	<p>See recommended changes in the attached revised Permit to the following:</p> <ul style="list-style-type: none"> • Provision A.4.c • Provision A.4.d • Provision B (first paragraph) • Provision B.3 <p>Additionally, within the requirements for each individual TMDL in Attachment E, include language similar to the following:</p> <p>Compliance may be demonstrated via any one of the following methods:</p> <ol style="list-style-type: none"> 1. There is no discharge from the MS4, or 2. Applicable effluent limitations are met, or 3. Receiving waters meet the applicable receiving water limitations or water quality objective, or 4. Loading from the MS4 is such that it does not cause water quality objective exceedances, or 5. For Permittee(s) that are implementing a Regional Board-approved WQIP, WQBELs will be implemented as BMPs and compliance will be based upon implementing all provisions of the WQIP in accordance with the approved milestones and schedule.

⁴ See also California Regional Water Quality Control Board San Diego Region - Fact Sheet / Technical Report For Order No. R9-2010-0016 / NPDES NO. CAS0108766.

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
167	Attachment E	E-1 to E-30	Specific Provisions for Total Maximum Daily Loads Applicable to Order No. R9-2012-0011	<p>The findings of California’s Stormwater Blue Ribbon Panel, which was convened specifically to examine the feasibility of incorporating numeric effluent limits in stormwater permits, ultimately concluded that numeric limits were generally infeasible across all three stormwater activities (municipal, industrial, and construction), with a few exceptions (<i>The Feasibility of Numeric Effluent Limits Applicable to Discharges of Stormwater Associated with Municipal, Industrial and Construction Activities, June 19, 2006</i>).</p> <p>Additionally, state law and policy does not require the use of numeric effluent limitations in MS4 permits. In 2009, the State Water Board affirmed this approach in a precedential order, stating:</p> <p>[i]t is our intent that federally mandated TMDLs be given substantive effect. Doing so can improve the efficacy of California’s NPDES storm water permits. This is not to say that a wasteload allocation will result in numeric effluent limitations for municipal storm water dischargers. Whether a future municipal storm water permit requirement appropriately implements a storm water wasteload allocation will need to be decided on the regional water quality control board’s findings <i>supporting either the numeric or non-numeric</i> effluent limitations contained in the permit. (Order WQ 2009-0008, In the Matter of the Petition of County of Los Angeles and Los Angeles County Flood Control District, at p. 10 (emphasis added).)</p>	<p>See recommended changes in the attached revised Permit to the following:</p> <ul style="list-style-type: none"> • Provision A.4.c • Provision A.4.d • Provision B (first paragraph) • Provision B.3 <p>Additionally, within the requirements for each individual TMDL in Attachment E, include language similar to the following,:</p> <p>Compliance may be demonstrated via any one of the following methods:</p> <ol style="list-style-type: none"> 1. There is no discharge from the MS4, or 2. Applicable effluent limitations are met, or 3. Receiving waters meet the applicable receiving water limitations or water quality objective, or 4. Loading from the MS4 is such that it does not cause water quality objective exceedances, or 5. For Permittee(s) that are implementing a Regional Board-approved WQIP, WQBELs will be implemented as BMPs and compliance will be based upon implementing all provisions of the WQIP in accordance with the approved milestones and schedule.

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
168	Attachment E. Part 1.b, 2.b, 4.b, and 6.b 3.b, 5.b	E-2, E-4, E-6, E-9, E-13, and E-19	Water Quality Based Effluent Limitations	<p>Federal regulations (40 CFR 122.44(d)(1)(vii)(B)) require inclusion of effluent limits that are "consistent with the assumptions and requirements of any available wasteload allocation for the discharge prepared by the State and approved by EPA." Attachment E outlines the requirements of effective TMDLs and appears to incorporate numeric receiving water limitations (RWL) <u>and</u> effluent limitations, where the effluent limitations are set equal to the TMDL Waste Load Allocations (WLAs) and the RWLs are set equal to the TMDL numeric targets. This approach results in a situation where the Copermittees are in double jeopardy.</p> <p>Copermittees should not be put in double jeopardy by being required to meet both RWLs and effluent limitations. Rather, attainment of either RWLs or effluent limitations should represent compliance with the permit and the requirements of the TMDL.</p>	<p>See recommended changes in the attached revised Permit. Additional language should be added to the WQBELs sections for all TMDLs in Attachment E to clearly define compliance with WQBELs via any of the following methods:</p> <ul style="list-style-type: none"> - There is no discharge from the MS4, OR - Applicable effluent limitations are met, OR - Receiving waters meet the applicable receiving water limitations or water quality objective, OR - Loading from the MS4 is such that it does not cause water quality objective exceedances, OR - For Permittee(s) that are implementing a Regional Board-approved WQIP, WQBELs will be implemented as BMPs and compliance will be based upon implementing all provisions of the WQIP in accordance with the approved milestones and schedule.
169	Attachment E	E-1 to E-30	Multiple	<p>Attachment E specifies outfall monitoring requirements for several TMDLs, "in accordance with the requirements of Provisions D.1, D.4.a.(1)(b), and D.4.a.(3)(b) of this Order." Adding outfall monitoring to the TMDL provisions is inappropriate and unnecessary. Attachment E should focus on integrating the monitoring requirements <i>specified in the TMDL Basin Plan Amendments</i>. The monitoring requirements for TMDLs were developed through a public comment</p>	<p>Modify the Specific Monitoring and Assessment Requirements for the following TMDLs:</p> <ol style="list-style-type: none"> 1. Total Maximum Daily Load for Diazinon in Chollas Creek Watershed 2. Total Maximum Daily Loads for Dissolved Copper in Shelter Island Yacht Basin 3. Total Maximum Daily Loads for Dissolved

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
				<p>process and adopted by the Regional Board, and are the only monitoring requirements that should be specified in Attachment E. Furthermore, there is no reason to re-state the requirements from Provision D, which makes it likely that Attachment E and Provision D will have inconsistencies. Provision D requirements should only be listed in Provision D.</p>	<p>4. Copper, Lead, and Zinc in Chollas Creek Total Maximum Daily Loads for Indicator Bacteria, Baby Beach in Dana Point Harbor and Shelter Island Shoreline Park in San Diego Bay</p> <p>Specifically, for each of these TMDLs, the sub-bullet under section (d) regarding effluent monitoring should be stricken and replaced with the following:</p> <p>“The Responsible Copermittees must implement the monitoring and assessment requirements issued under Order No. XXXX. The monitoring and assessment results must be submitted as part of the Annual Reports required under Provision F.3.b of this Order.”,</p> <p>where “XXXX” reflects the order numbers for each TMDL, shown in the attached revised Permit on Page E-1. For the Chollas Creek Metals and Diazinon TMDLs, the XXX refers to the order number for the issued Investigation Orders.</p> <p>For the Project I Bacteria TMDL, specific changes to the monitoring requirements are requested to reflect those specified in the TMDL Basin Plan Amendment, as described below.</p>
170	Attachment E. Part 4.b.	E-10	Water Quality Based Effluent Limitations	<p>The TMDL for Dissolved Copper, Lead, and Zinc in Chollas Creek states that “If all copper, lead, and zinc concentrations in urban runoff to Chollas Creek meet their respective TMDL concentrations, the loading capacity of the creek should not be exceeded” (Section</p>	<p>If WQBELs are to be expressed as numeric effluent limits consistent with the WLAs, then mass-based WQBELs should be included as a mechanism for demonstrating compliance to allow for options to demonstrate load-based pollutant reductions.</p> <p>As described above, the mass-based WQBELs</p>

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
				8). The TMDL further states that “because this WLA is concentration-based it will apply to each land use and each sub-watershed at all times and will not be specific to any land use or sub-watershed (Section 8.1). Requiring all land uses and sub-watersheds to meet effluent limits consistent with RWLs is not a cost-effective or practicable approach to BMP strategy development. Volume reduction strategies such as Low Impact Development and Green Infrastructure should be a viable compliance path for the San Diego region. The WQBELs should include the mass-load based WLAs to consider the pollutant loads reduced, which will be impacted by both pollutant concentration reductions <i>and</i> stormwater volume reductions. Alternatives for load-based approaches should be included as effluent limitations, which will correspond to targets for meaningful CLRP and WQIP development.	should only be included with an “or” statement (not an “and” statement). The recommended Compliance Determination language in the attached revised Permit addresses this issue.
171	Attachment E. Part 5.b (1) and (2)		Effluent Limits	The effluent limits listed within the permit apply the water quality objectives end of pipe for the MS4 dischargers. The permit language should be consistent with the TMDL and state what the load allocations are that are assigned to the dischargers.	As shown in the attached revised Permit, revise the language, as follows: Delete the following from 5.b (1)(b): “The Copermittee must provide data that demonstrate the discharges from the MS4s are meeting the effluent limitations under Specific Provision 5.b. Error! Reference source not found. ” Delete section 5.b.(2) “Effluent Limits” and replace with the following: “For both (a) and (b) above, if the REC-1 water quality objectives cannot be met in the receiving waters, and if the natural and

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
					background sources appear to be the sole source of the continued impairment, the natural sources exclusion approach (NSEA) may be applied. The Municipal Dischargers are responsible for collection of the data to support the application of the NSEA to recalculate the TMDL.” www.waterboards.ca.gov/sandiego/water_issues/programs/basin_plan/docs/update082812/Chapter_7_2012.pdf , Page 7-56
172	Attachment E. Part 5.c		Compliance Schedule	The waste load reduction milestones should be consistent with the milestones included in the current Order R9-2009-0002 (page 78).	As shown in the attached revised Permit, revise the language, as follows: Revise 5.c.(1) to include the waste load reduction compliance dates.
173	Attachment E. Part 6.a	E-19	Applicability	Since adoption of the Project I Bacteria TMDL, the Copermittees have submitted data to the Regional Board to demonstrate that 303(d) listings for San Marcos HA, San Dieguito River HA, and Los Penasquitos HA were incorrectly applied to REC beneficial uses. The Regional Board has responded and agreed, indicating “that Los Penasquitos has posted data to the Regional Board to demonstrate that 303(d) listings for San Marcos HA, Pacific Ocean Shoreline at Los Penasquitos River Mouth is not subject to further action under Resolution No. R9-2010-0001.” Similar responses are expected for the other HAs.	In Table 6.0, the San Dieguito River WMA and Carlsbad WMAs should be deleted. The Los Penasquitos WMA should be re-named to the Mission Bay WMA and Torrey Pines State Beach at Del Mar should be removed. The recommended language in the attached revised Permit addresses this issue by also adding the following to Specific Provision 6.a.(5): “Subsequent to TMDL adoption, it has been established by the Regional Board that the following water bodies are not

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011																	
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes												
					<p>subject to further action under Resolution No. R9-2010-001, and therefore are not subject to Bacteria TMDL requirements described herein and are not included in Table 6.0:</p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th style="width: 25%;">Watershed Management Area</th> <th style="width: 25%;">Water Body</th> <th style="width: 50%;">Segment or Area</th> </tr> </thead> <tbody> <tr> <td>Carlsbad</td> <td>Pacific Ocean Shoreline</td> <td>at Moonlight State Beach</td> </tr> <tr> <td>San Dieguito River</td> <td>Pacific Ocean Shoreline</td> <td>at San Dieguito Lagoon mouth</td> </tr> <tr> <td>Penasquitos</td> <td>Pacific Ocean Shoreline</td> <td>Torrey Pines State Beach at Del Mar (Anderson Canyon)</td> </tr> </tbody> </table>	Watershed Management Area	Water Body	Segment or Area	Carlsbad	Pacific Ocean Shoreline	at Moonlight State Beach	San Dieguito River	Pacific Ocean Shoreline	at San Dieguito Lagoon mouth	Penasquitos	Pacific Ocean Shoreline	Torrey Pines State Beach at Del Mar (Anderson Canyon)
Watershed Management Area	Water Body	Segment or Area															
Carlsbad	Pacific Ocean Shoreline	at Moonlight State Beach															
San Dieguito River	Pacific Ocean Shoreline	at San Dieguito Lagoon mouth															
Penasquitos	Pacific Ocean Shoreline	Torrey Pines State Beach at Del Mar (Anderson Canyon)															
174	Attachment E. Part 6.a	E-19	Applicability	<p>Since adoption of the Project I Bacteria TMDL, the Copermittees have submitted data to the Regional Board to demonstrate that 303(d) listings were incorrectly applied to REC beneficial uses. The permit should include language to recognize that additional water body areas or segment may not be subject to further action under Resolution No. R9-2010-001.</p>	<p>As shown in the attached revised Permit, revise the language, as follows:</p> <p>Add the following language: “The TMDLs that have been developed for the Pacific Ocean shorelines are applicable to all the beaches located on the shorelines of the hydrologic subareas (HSAs), hydrologic areas (HAs), and hydrologic units (HUs) listed above. Beginning with the 2008 303(d) List, specific beach segments of the Pacific Ocean shoreline are listed individually. Specific beach segments from some of the Pacific Ocean shorelines listed in the above table have been delisted from the 2008 303(d) list that was approved by the San Diego Board on December 16, 2009, and therefore are not subject to</p>												

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
					any further action as long as monitoring data continues to support compliance with water quality standards.” www.waterboards.ca.gov/sandiego/water_issues/programs/basin_plan/docs/update082812/Chpt_7_2012.pdf , Page 7-60
175	Attachment E. Part 6.b	E-19	Receiving Water Limitations	The Basin Plan Amendment for the Project I Bacteria TMDL contains Receiving Water Limitations. These Receiving Water Limitations should be incorporated directly into the Permit. However, Attachment E contains Receiving Water Limitations that do <u>not</u> match those from the TMDL. The Regional Board should not revise or translate the RWLs from the TMDL, they should be incorporated directly. The RWLs incorporated into Attachment E have several discrepancies with the RWLs in the TMDL, including application of single sample targets to the dry weather RWLs and application of total coliform RWLs for inland waters.	Replace entirely the RWLs in the Permit with those from the TMDL. The attached revised Permit incorporates RWLs for beaches (Table 6.1) and RWLs for Creeks (Table 6.2). Note these RWLs were <i>pasted directly</i> from the Basin Plan Amendment (Attachment A, page 52).
176	Attachment E. Part 6.b	E-19 and E-20	Water Quality Based Effluent Limitations	Attachment E specifies WQBELs for dry weather flows as both receiving water and effluent limitations for the Project I Bacteria TMDL, in terms of zero allowable exceedances of the single sample maximum and the 30-day geometric mean. However, the dry weather component of the TMDL only considered the 30-day geometric mean, and did not consider the single sample maximum within its calculation. Incorporating single sample effluent limitations into the Permit goes beyond the TMDL requirements. In addition, if the TMDL had included single sample limits, there would have been a corresponding allowable exceedance frequency, just as	It is recommended that the single sample maximum not be used for dry weather WQBELs. At a minimum, an acceptable dry weather exceedance frequency should be assumed and applied. Specific Provision 6.b.(2) of the attached revised Permit addresses this issue by (1) incorporating the RWLs directly from the TMDL, and (2) linking the receiving water limitations and effluent limitations.

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
				for wet weather. The 22% allowable exceedance rate for wet weather was based on a reference beach within the Los Angeles Region, and although not used in the technical approach for the San Diego Beaches and Creeks TMDL, the reference beach also exhibits exceedances during dry weather, which is incorporated into beach TMDLs in the Los Angeles region.	
177	Attachment E. Part 6.b	E-20	Water Quality Based Effluent Limitations	<p>The Project I Bacteria TMDL applies mass-load based TMDLs to point sources. Many of the BMPs used for achieving pollutant reductions, such as structural BMPs and green infrastructure, emphasize infiltration and associated volume reduction as the primary mechanism for reducing urban runoff. A significant investment could be made to implement structural BMPs to reduce urban runoff to meet the mass-load based WLAs assigned in the TMDL. These reductions could result in meeting the mass-based WLA and have a positive impact on receiving waters by significantly reducing urban loads to receiving waters. However, even the small amount of flows remaining could exceed the numeric effluent limitations currently in the Permit, but <u>not</u> cause or contribute to WQO exceedances. In this manner, a violation of the numeric WQBELs would result in zero credit for the millions invested and penalty for discharges that did <u>not</u> negatively impact attainment of WQ standards.</p> <p>Volume reduction strategies such as Low Impact Development and Green Infrastructure should be a viable compliance path for the San Diego region. The WQBELs should include the mass-load based WLAs to consider the pollutant loads reduced, which will be impacted by both pollutant concentration reductions <i>and</i> stormwater volume reductions.</p>	<p>If WQBELs are to be expressed as numeric effluent limits consistent with the WLAs, the mass based WLAs for both dry and wet weather presented in the TMDL should be included as a mechanism for demonstrating compliance to 1) be consistent with the assumptions of the WLAs and 2) allow for options to demonstrate load based pollutant reductions.</p> <p>The attached revised Permit addresses this issue by incorporating the mass-based wasteload allocations into Section 6.b.(2).</p>

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
178	Attachment E. Part 6.b	E-20	Water Quality Based Effluent Limitations	The reference conditions and associated allowable exceedance frequencies for WQBELs addressing Project I Bacteria TMDL were based on a marine reference beach within Los Angeles, and are not necessarily applicable to fresh water flows in the San Diego Region. The Los Angeles reference beach was influenced by salt water (increasing bacterial die-off) and mixing/dilution from wave action that likely resulted in lower exceedances of REC-1 objectives than would be found in a freshwater stream. Freshwater TMDLs in the Los Angeles region now incorporate freshwater reference systems (instead of a marine reference system), and the marine beach exceedance rates have been updated through a recent TMDL reopener for Santa Monica Bay. In addition, a reference study is currently underway for the San Diego Region.	The permit should include language that allows for update of the allowable exceedance frequencies as these results become available. The attached revised Permit addresses this issue by added the following paragraph to Specific Provision 6.b.(1).(a): “The allowable exceedance frequencies in Table 6.1 and Table 6.2 can be updated by the Regional Board Executive Officer if sufficient data is provided regarding reference systems in the San Diego Region.”
179	Attachment E. Part 6.c	E-20	Compliance Schedule	Total coliform WQOs do not apply to inland waters.	As shown in the attached revised Permit, add a footnote to Table 6.3 as follows: “Total coliform receiving water limitations apply only to segments of areas of Pacific Ocean Shoreline listed in Table 6.0 .”
180	Attachment E. Part 6.c	E-27	Compliance Schedule	The CLRPs to be submitted by Copermittees will propose interim compliance dates, as allowed by the Project I Bacteria TMDL, generally 7 and 10 years, respectively, to meet the 50% reduction milestone for dry and wet weather. The CLRPs submitted by Copermittees may not all propose the same interim compliance dates and the Permit should acknowledge the flexibility allowed by the TMDL (see page 68 of Attachment A of the Basin Plan Amendment). In fact, this scheduling flexibility was a primary “incentive” for Copermittees to develop CLRPs instead of BLRPs.	The interim compliance dates should not be specified in the Permit. Instead, the Permit should reference the submitted and Regional Board-approved CLRPs. This approach will avoid conflict between the TMDL, Permit, and CLRPs. The attached revised Permit addresses this issue by revising the opening of Section 6.c.(2): “The Responsible Copermittees must comply with

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
					<p>the following interim WQBELs by the interim compliance dates <u>submitted in the Regional Board-approved CLRPs and supported by Order No. R9-2010-0001.</u>”</p> <p>Table 6.5 should be deleted from Attachment E to allow the CLRPs the scheduling flexibility provided in the TMDL adopted by the Regional Board.</p>
181	Attachment E. Part 6.c	E-21 thru E-27	Compliance Schedule	Similar to the flexibility allowed for scheduling, the TMDL allows CLRPs flexibility in expressing and achieving TMDL milestones/interim requirements. Furthermore, the wet weather interim compliance dates are well-beyond the term of this Permit, and should be not included in Attachment E.	Delete Table 6.4 because (1) the CLRPs have flexibility to express interim milestones and (2) the wet weather interim requirements do not apply until 2022, well beyond the term of this Permit.
182	Attachment E. Part 6.c	E-27	Compliance Schedule	The Copermittees request an acknowledgement of the TMDL reopener scheduled for April 2016 which falls within the term of this Permit.	<p>Add a part (3) to Specific Provision 6.c:</p> <p>“(3) <u>Submittals to Support TMDL Basin Plan Amendment</u> The Responsible Copermittees are encouraged to submit data to support the TMDL reopener scheduled for April 2016 including but not limited to data related to reference watershed monitoring and beneficial use usage frequency.”</p>
183	Attachment E. Part 6.d (new section added to revised)	E-27	Compliance Determination	The BPA for the Project I Bacteria TMDL contains specific language regarding MS4 compliance determination in the case that receiving water limitations are not attained. This language should be added directly to the Permit.	<p>As shown in the attached revised Permit, add the following language to Section 6 of Attachment E, which is <i>pasted directly</i> from the BPA:</p> <p>“The municipal MS4s may demonstrate that their discharges are not causing the exceedances in the receiving waters by providing data from their discharge points to the receiving waters, by providing data collected at jurisdictional</p>

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
					boundaries, and/or by using other methods accepted by the San Diego Water Board. Otherwise, at the end of the wet weather TMDL compliance schedule, the municipal Phase I MS4s will be held responsible and considered out of compliance unless other information or evidence indicates another controllable or uncontrollable source is responsible for the exceedances in the receiving waters. If controllable sources other than discharges from the municipal Phase I MS4s are identified before or after the end of the wet weather TMDL Compliance Schedules as causing the exceedances, those controllable sources will be responsible for reducing their bacteria loads and/or demonstrating that discharges from those sources are not causing the exceedances. If controllable sources other than the Phase I MS4s are identified as causing the exceedances, and the Phase I MS4s have demonstrated they are not causing or contributing to the exceedances, the Phase I MS4s will not be considered out of compliance. The San Diego Water Board shall implement additional actions (e.g., issue enforcement actions, amend existing NPDES requirements or conditional waivers), as needed, to bring all those controllable sources into compliance with the wet weather TMDLs.”
184	Attachment E. Part 6.d	E-27	Specific Monitoring and Assessment Requirements	As described above, the CLRP’s envisioned in the Project I Bacteria TMDL include flexibility to develop certain components based on watershed-specific issues and conditions. Each CLRP submitted by the Copermittees will include a monitoring and assessment component. It is important to allow the CLRP process to drive the monitoring programs.	As shown in the attached revised Permit, include the following at the beginning of the Monitoring and Assessment section: “The BLRPs and CLRP’s to be submitted by the Copermittees and approved by the Regional Board

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
					Executive Officer contain monitoring programs. Implementation of those Regional Board-approved monitoring programs constitutes compliance with the Monitoring Station and Monitoring Procedure requirements, described below.”
185	Attachment E. Part 6.d	E-27	Specific Monitoring and Assessment Requirements	The Project I Bacteria TMDL included specific beach monitoring requirements, which were subject to a public comment process and adopted by the Regional Board. Attachment E adds many additional components to these requirements, which undermines the TMDL adoption and public commenting process. Instead of re-interpreting and adding onto the TMDL monitoring requirements in the Basin Plan Amendment, the Permit should adopt those requirements directly (BPA Attachment A, page 50-51).	<p>As shown in the attached revised Permit, the beach monitoring requirement should be incorporated directly from the TMDL. The following language/requirement for beaches is <i>pasted directly</i> from the TMDL:</p> <p>“(1) Monitoring and Assessment Requirements for Beaches</p> <p>(a) Monitoring Stations For beaches addressed by these TMDLs, monitoring locations should consist of, at a minimum, the same locations used to collect data required under MS4 NPDES monitoring requirements and beach monitoring for Health and Safety Code section 115880.75 If exceedances of the receiving water limitations are observed in the monitoring data, additional monitoring locations and/or other source identification methods must be implemented to identify the sources causing the exceedances. The additional monitoring locations and/or other source identification methods must also be used to demonstrate that the bacteria loads from the identified sources have been addressed and are no longer causing exceedances in the receiving waters.</p> <p>(b) Monitoring Procedures</p>

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
					(i) The Responsible Copermittees must collect dry weather monitoring samples from the receiving water monitoring stations at least monthly. (ii) The Responsible Copermittees must collect wet weather monitoring samples from the receiving water monitoring stations at least once within the first 24 hours of the end of a storm event that occurs during the rainy season (i.e., October 1 through April 30). (iii) Samples must be analyzed for total coliform, fecal coliform, and <i>Enterococcus</i> indicator bacteria.”
186	Attachment E. Part 6.d	E-27	Specific Monitoring and Assessment Requirements	Similarly, the creek monitoring requirements should reflect the TMDL that was approved and subject to public comment (BPA Attachment A, page 50-51). Note that total coliform should not be a requirement for creek monitoring, as creeks are not subject to total coliform WQOs, RWLs, or WLAs.	As shown in the attached revised Permit, the creek monitoring requirement should be incorporated directly from the TMDL. The following language/requirement for creeks is <i>pasted directly</i> from the TMDL: “Monitoring and Assessment Requirements for Creeks and Creek Mouths (a) Monitoring Stations For creeks addressed by these TMDLs, monitoring locations should consist of, at a minimum, a location at or near the mouth of the creek (e.g., Mass Loading Station or Mass Emission Station) and one or more locations upstream of the mouth (e.g., Watershed Assessment Stations). If exceedances of the receiving water limitations are observed in the monitoring data, additional monitoring locations and/or other source identification methods must be implemented to identify the sources causing the exceedances. The additional monitoring locations and/or other source

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
					<p>identification methods must also be used to demonstrate that the bacteria loads from the identified sources have been addressed and are no longer causing exceedances in the receiving waters.</p> <p>(b) Monitoring Procedures</p> <p>(i) The Responsible Copermittees must collect dry weather monitoring samples from the receiving water monitoring stations at least monthly.</p> <p>(ii) The Responsible Copermittees must collect wet weather monitoring samples from the receiving water monitoring stations within the first 24 hours of the end of a storm event that occurs during the rainy season (i.e., October 1 through April 30)</p> <p>(iii) Samples collected from receiving water monitoring stations must be analyzed for fecal coliform and <i>Enterococcus</i> indicator bacteria.”</p>

ADMINISTRATIVE DRAFT

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

TENTATIVE
ORDER NO. R9-2012-0011
NPDES NO. CAS0109266

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT
AND WASTE DISCHARGE REQUIREMENTS
FOR
DISCHARGES FROM THE MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4s)
DRAINING THE WATERSHEDS WITHIN THE SAN DIEGO REGION**

The San Diego County Copermittees in [Table 1a](#) are subject to waste discharge requirements [within their respective jurisdictions as](#) set forth in this Order.

Table 1a. San Diego County Copermittees

City of Carlsbad	City of Oceanside
City of Chula Vista	City of Poway
City of Coronado	City of San Diego
City of Del Mar	City of San Marcos
City of El Cajon	City of Santee
City of Encinitas	City of Solana Beach
City of Escondido	City of Vista
City of Imperial Beach	County of San Diego
City of La Mesa	San Diego County Regional Airport Authority
City of Lemon Grove	Unified Port District of San Diego
City of National City	

The Orange County Copermittees in [Table 1b](#) are subject to waste discharge requirements [within their respective jurisdictions as](#) set forth in this Order upon expiration of Order No. R9-2009-0002, NPDES No. CAS0108740 on December 16, 2014.

Table 1b. Orange County Copermittees

City of Aliso Viejo	City of Ranch Santa Margarita
City of Dana Point	City of San Clemente
City of Laguna Beach	City of San Juan Capistrano
City of Laguna Hills	City of Laguna Woods
City of Laguna Niguel	County of Orange
City of Lake Forest	Orange County Flood Control District
City of Mission Viejo	

ADMINISTRATIVE DRAFT

The Riverside County Copermittees in [Table 1c](#) are subject to waste discharge requirements [within their respective jurisdictions as](#) set forth in this Order upon expiration of Order No. R9-2010-0016, NPDES No. CAS0108766 on November 10, 2015.

Table 1c. Riverside County Copermittees

City of Murrieta	County of Riverside
City of Temecula	Riverside County Flood Control and
City of Wildomar	Water Conservation District

The Orange County Copermittees and Riverside County Copermittees may enroll under this Order at a date earlier than the expiration date of their current Orders subject to the conditions described in Provision [F.6](#) of this Order and the Copermittees in the respective county receive a Notice of Enrollment (NOE) from the San Diego Water Board.

The term Copermittee in this Order refers to any San Diego County, Orange County, or Riverside County Copermittee enrolled under this Order, unless specified otherwise.

This Order provides permit coverage for the Copermittee discharges described in [Table 2](#).

Table 2. Discharge Locations and Receiving Waters

Discharge Points	Locations throughout San Diego Region
Discharge Description	Municipal Separate Storm Sewer System (MS4) Discharges
Receiving Waters	Inland Surface Waters, Enclosed Bays and Estuaries, and Coastal Ocean Waters of the San Diego Region

Table 3. Administrative Information

This Order was adopted by the San Diego Water Board on:	Month Day, 2012
This Order will become effective on:	Month Day, 2012
This Order will expire on:	Month Day, 2017
The Copermittees must file a Report of Waste Discharge (ROWD) in accordance with Title 23, California Code of Regulations, as application for issuance of new waste discharge requirements no later than 180 days in advance of the Order expiration date.	

I, David W. Gibson, Executive Officer, do hereby certify that this Order with all attachments is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Diego Region, on Month Day, 2012.

TENTATIVE

 David W. Gibson
 Executive Officer

ADMINISTRATIVE DRAFT

TABLE OF CONTENTS

I. FINDINGS

- Jurisdiction 1
- Discharge Characteristics and Runoff Management..... 2
- Water Quality Standards..... 5
- Considerations Under Federal Law 6
- Considerations Under State Law 7
- State Water Board Decisions..... 7
- Administrative Findings..... 8

II. PROVISIONS

- A. Prohibitions and Limitations..... 9
 - 1. Discharge Prohibitions 9
 - 2. Receiving Water Limitations..... 10
 - 3. Effluent Limitations 11
 - 4. Compliance with Discharge Prohibitions and Receiving Water Limitations..... 11
- B. Water Quality Improvement Plans 15
 - 1. Watershed Management Areas 15
 - 2. Identification of Water Quality Priorities 17
 - 3. Water Quality Improvement Strategies and Schedules 22
 - 4. Water Quality Improvement Monitoring and Assessment..... 25
 - 5. Adaptive Management Process 25
 - 6. Water Quality Improvement Plan Implementation **Error! Bookmark not defined.**
- C. Action Levels..... 29
 - 1. Non-Storm Water Action Levels 31
 - 2. Storm Water Action Levels 34
- D. Monitoring and Assessment Requirements..... 36
 - 1. Jurisdictional Monitoring Requirements 36
 - 2. Watershed Monitoring Requirements..... 48
 - 3. Regional Special Studies 55
 - 4. Assessment Requirements 56
 - 5. Monitoring Provisions 62
- E. Jurisdictional Runoff Management Programs 63
 - 1. Legal Authority Establishment and Enforcement 65
 - 2. Illicit Discharge Detection and Elimination 66
 - 3. Development Planning 74
 - 4. Construction Management 92
 - 5. Existing Development Management 96
 - 6. Enforcement Response Plans..... 104
 - 7. Public Education and Participation..... 109
 - 8. Fiscal Analysis..... 109

ADMINISTRATIVE DRAFT

**TABLE OF CONTENTS
(Cont'd)**

II. PROVISIONS

F. Reporting 111

 1. Water Quality Improvement Plans 111

 2. Updates 111

 3. Progress Reporting 112

 4. Regional Clearinghouse 115

 5. Report of Waste Discharge 115

 6. Application for Early Enrollment 116

 7. Reporting Provisions 118

G. Principal Watershed Copermittee Responsibilities..... 119

H. Modification of Programs 120

I. Standard Permit Provisions and General Provisions 121

Attachment A Discharge Prohibitions A-1

Attachment B Standard Permit Provisions and General Provisions B-1

Attachment C Acronyms, Abbreviations and Definitions C-1

Attachment D Jurisdictional Runoff Management Program Annual Report Form D-1

Attachment E Specific Provisions for Total Maximum Daily Loads Applicable to
Order No. R9-2012-0011 E-1

ADMINISTRATIVE DRAFT**I. FINDINGS**

The California Regional Water Quality Control Board, San Diego Region (San Diego Water Board), finds that:

JURISDICTION

- 1. MS4 Ownership or Operation.** Each of the Copermitees owns or operates an MS4, through which it discharges storm water and non-storm water into waters of the U.S. within the San Diego Region. These MS4s fall into one or more of the following categories: (1) a medium or large MS4 that services a population of greater than 100,000 or 250,000 respectively; or (2) a small MS4 that is "interrelated" to a medium or large MS4; or (3) an MS4 which contributes to a violation of a water quality standard; or (4) an MS4 which is a significant contributor of pollutants to waters of the U.S.
- 2. Legal and Regulatory Authority.** This Order is issued pursuant to section 402 of the federal Clean Water Act (CWA) and implementing regulations (Code of Federal Regulations [CFR] Title 40, Part 122 [40 CFR 122]) adopted by the United States Environmental Protection Agency (USEPA), and chapter 5.5, division 7 of the California Water Code (CWC) (commencing with section 13370). This Order serves as an NPDES permit for discharges from MS4s to surface waters. This Order also serves as waste discharge requirements (WDRs) pursuant to article 4, chapter 4, division 7 of the CWC (commencing with section 13260).
- 3. CWA Technology Based Standards and Prohibitions.** Pursuant to CWA section 402(p)(3)(B), NPDES permits for storm water discharges from MS4s must include requirements to effectively prohibit non-storm water discharges into MS4s, and require controls to reduce the discharge of pollutants in storm water to the maximum extent practicable (MEP).
- 4. CWA NPDES Permit Conditions.** Pursuant to CWA section 402(a)(2), NPDES permits must prescribe conditions to assure compliance with CWA section 402(p)(3)(B) and 40 CFR 122.26(d)(2)(iv)(B). This Order prescribes conditions to assure compliance with the CWA requirements for owners and operators of MS4s to effectively prohibit non-storm water discharges in-to the MS4s, and require controls to reduce the discharge of pollutants in storm water from the MS4s to the MEP.
- 5. CWA and CWC Monitoring Requirements.** Pursuant to 40 CFR 122.48, NPDES permits must specify requirements for recording and reporting monitoring results. In addition, CWC sections 13267 and 13383 authorize the San Diego Water Board to require technical and monitoring reports. This Order establishes monitoring and reporting requirements to implement federal and State requirements.

ADMINISTRATIVE DRAFT

- 6. Total Maximum Daily Loads.** CWA section 303(d)(1)(A) requires that “[e]ach state shall identify those waters within its boundaries for which the effluent limitations...are not stringent enough to implement any water quality standard applicable to such waters.” The CWA also requires states to establish a priority ranking of impaired water bodies known as Water Quality Limited Segments and to establish Total Maximum Daily Loads (TMDLs) for such waters. This priority list of impaired water bodies is called the Clean Water Act Section 303(d) List of Water Quality Limited Segments, commonly referred to as the 303(d) List. The CWA requires the 303(d) List to be updated every two years. Requirements of this Order implement the TMDLs adopted by the San Diego Water Board and approved by USEPA.
- 7. Non-Storm Water Discharges.** Pursuant to CWA section 402(p)(3)(B)(ii), this Order requires each Copermitee to effectively prohibit discharges of non-storm water into its MS4. Nevertheless, non-storm water discharges into and from the MS4s continue to be reported to the San Diego Water Board by the Copermitees and other persons. Monitoring conducted by the Copermitees, as well as the 303(d) List, have identified dry weather, non-storm water discharges from the MS4s as a source of pollutants causing or contributing to receiving water quality impairments in the San Diego Region. The federal regulations [40 CFR 122.26(d)(2)(iv)(B)] require the Copermitees to have a program to ~~prevent-effectively prohibit all-types-of non-storm water discharges, or~~ illicit discharges, from entering the MS4. The federal regulations, however, allow for specific categories of non-storm water discharges ~~of flows~~ to be addressed as illicit discharges only where such discharges are identified as sources of pollutants to waters of the U.S.
- 8. In-Stream Treatment Systems.** Pursuant to federal regulations [40 CFR 131.10(a)], in no case shall a state adopt waste transport or waste assimilation as a designated use for any waters of the U.S. Authorizing the construction of a runoff treatment facility within a water of the U.S., or using the water body itself as a treatment system or for conveyance to a treatment system, would be tantamount to accepting waste assimilation as an appropriate use for that water body. Runoff treatment must occur prior to the discharge of runoff into receiving waters. Treatment control best management practices (BMPs) must not be constructed in waters of the U.S. or state. Construction, operation, and maintenance of a pollution control facility in a water body can negatively impact the physical, chemical, and biological integrity, as well as the beneficial uses, of the water body.

DISCHARGE CHARACTERISTICS AND RUNOFF MANAGEMENT

- 9. Point Source Discharges of Pollutants.** Discharges from the MS4s may contain waste, as defined in the CWC, and pollutants that adversely affect the quality of the waters of the state. A discharge from an MS4 is a “discharge of pollutants from a point source” into waters of the U.S. as defined in the CWA. Storm water and non-storm water discharges from the MS4s may contain pollutants that cause or threaten to cause a violation of surface water quality standards, as outlined in the Basin Plan. Storm water and non-storm water discharges from the MS4s are subject to the conditions and requirements established in the Basin Plan for point source

ADMINISTRATIVE DRAFT

discharges.

- 10. Potential Beneficial Use Impairment.** The discharge of pollutants and/or increased flows from MS4s may cause or threaten to cause the concentration of pollutants to exceed applicable receiving water quality objectives and impair or threaten to impair designated beneficial uses resulting in a condition of pollution, contamination, or nuisance.
- 11. Pollutants Generated by Land Development.** Land development has created and continues to create new sources of non-storm water discharges and pollutants in storm water discharges as human population density increases. This brings higher levels of car emissions, car maintenance wastes, municipal sewage, pesticides, household hazardous wastes, pet wastes, and trash. Pollutants from these sources are dumped or washed off the surface by non-storm water or storm water flows into and from the MS4s. When development converts natural vegetated pervious ground cover to impervious surfaces such as paved highways, streets, rooftops, and parking lots, the natural absorption and infiltration abilities of the land are lost. Therefore, runoff leaving a developed area contains greater pollutant loads and is significantly greater in runoff volume, velocity, and peak flow rate than pre-development runoff from the same area.
- 12. Runoff Discharges to Receiving Waters.** The MS4s discharge runoff into lakes, drinking water reservoirs, rivers, streams, creeks, bays, estuaries, coastal lagoons, the Pacific Ocean, and tributaries thereto within the eleven hydrologic units comprising the San Diego Region. Numerous receiving water bodies and water body segments have been designated as impaired by the San Diego Water Board pursuant to CWA section 303(d).
- 13. Pollutants in Runoff.** The most common pollutants in runoff discharged from the MS4s include total suspended solids, sediment, pathogens (e.g., bacteria, viruses, protozoa), heavy metals (e.g., cadmium, copper, lead, and zinc), petroleum products and polynuclear aromatic hydrocarbons, synthetic organics (e.g., pesticides, herbicides, and PCBs), nutrients (e.g., nitrogen and phosphorus), oxygen-demanding substances (decaying vegetation, animal waste), detergents, and trash.
- 14. Human Health and Aquatic Life Impairment.** Pollutants in runoff discharges from the MS4s can threaten and adversely affect human health and aquatic organisms. Adverse responses of organisms to chemicals or physical agents in runoff range from physiological responses such as impaired reproduction or growth anomalies to mortality. Increased volume, velocity, rate, and duration of storm water runoff greatly accelerate the erosion of downstream natural channels. This alters stream channels and habitats and can adversely affect aquatic and terrestrial organisms.
- 15. Water Quality Effects.** The Copermittes' water quality monitoring data submitted to date documents persistent exceedances of Basin Plan water quality objectives for runoff-related pollutants at various watershed monitoring stations. Persistent toxicity has also been observed at several watershed monitoring stations. In addition,

ADMINISTRATIVE DRAFT

bioassessment data indicate that the majority of the monitored receiving waters have Poor to Very Poor Index of Biotic Integrity (IBI) ratings. These findings indicate that runoff discharges are causing or contributing to water quality impairments, and are a leading cause of such impairments in the San Diego Region. Non-storm water discharges from the MS4s have been shown to contribute significant levels of pollutants and flow in arid, developed Southern California watersheds, and contribute significantly to exceedances of applicable receiving water quality objectives.

- 16. Non-Storm Water Discharges.** Non-storm water discharges ~~from~~into the MS4s are not considered storm water discharges and therefore are not subject to the MEP standard from CWA 402(p)(3)(B)(iii), which is explicitly for “Municipal ... *Stormwater Discharges* (emphasis added)” from the MS4s. Pursuant to CWA 402(p)(3)(B)(ii), non-storm water discharges into the MS4s must be effectively prohibited.
- 17. Best Management Practices.** Pollutants can be effectively reduced in runoff by the application of a combination of pollution prevention, source control, and treatment control BMPs. Pollution prevention is the reduction or elimination of pollutant generation at its source and is the best “first line of defense”. Source control BMPs (both structural and non-structural) minimize the contact between pollutants and runoff, therefore keeping pollutants onsite and out of receiving waters. Treatment control BMPs remove pollutants that have been mobilized by storm water or non-storm water flows.
- 18. BMP Implementation.** Runoff needs to be addressed during the three major phases of development (planning, construction, and use) in order to reduce the discharge of storm water pollutants to the MEP, effectively prohibit non-storm water discharges, and protect receiving waters. Development which is not guided by water quality planning policies and principles can result in increased pollutant load discharges, flow rates, and flow durations which can negatively affect receiving water beneficial uses. Construction sites without adequate BMP implementation result in sediment runoff rates which greatly exceed natural erosion rates of undisturbed lands, causing siltation and impairment of receiving waters. Existing development can generate substantial pollutant loads which are discharged in runoff to receiving waters.
- 19. Long Term Planning and Implementation.** Federal regulations require municipal storm water permits to expire 5 years from adoption, after which the permit must be renewed and reissued. The San Diego Water Board recognizes that the degradation of water quality and impacts to beneficial uses of the waters in the San Diego Region occurred over several decades. The San Diego Water Board further recognizes that a decade or more may be necessary to realize demonstrable improvement to the quality of waters in the Region. This Order includes a long term planning and implementation approach that will require more than a single permit term to complete.

ADMINISTRATIVE DRAFT*WATER QUALITY STANDARDS*

20. Basin Plan. The San Diego Water Board adopted a Water Quality Control Plan for the San Diego Basin (Basin Plan) on September 8, 1994 that designates beneficial uses, establishes water quality objectives, and contains implementation programs and policies to achieve those objectives for receiving waters addressed through the plan. The Basin Plan was subsequently approved by the State Water Resources Control Board (State Water Board) on December 13, 1994. Subsequent revisions to the Basin Plan have also been adopted by the San Diego Water Board and approved by the State Water Board. Requirements of this Order implement the Basin Plan.

The Basin Plan identifies the following existing and potential beneficial uses for inland surface waters in the San Diego Region: Municipal and Domestic Supply (MUN), Agricultural Supply (AGR), Industrial Process Supply (PROC), Industrial Service Supply (IND), Ground Water Recharge (GWR), Contact Water Recreation (REC1), Non-contact Water Recreation (REC2), Warm Freshwater Habitat (WARM), Cold Freshwater Habitat (COLD), Wildlife Habitat (WILD), Rare, Threatened, or Endangered Species (RARE), Freshwater Replenishment (FRSH), Hydropower Generation (POW), and Preservation of Biological Habitats of Special Significance (BIOL). The following additional existing and potential beneficial uses are identified for coastal waters of the San Diego Region: Navigation (NAV), Commercial and Sport Fishing (COMM), Estuarine Habitat (EST), Marine Habitat (MAR), Aquaculture (AQUA), Migration of Aquatic Organisms (MIGR), Spawning, Reproduction, and/or Early Development (SPWN), and Shellfish Harvesting (SHELL).

21. Ocean Plan. The State Water Board adopted the Water Quality Control Plan for Ocean Waters of California, California Ocean Plan (Ocean Plan) in 1972 and amended it in 1978, 1983, 1988, 1990, 1997, 2000, and 2005. The State Water Board adopted the latest amendment on April 21, 2005 and it became effective on February 14, 2006. The Ocean Plan is applicable, in its entirety, to point source discharges to the ocean. Requirements of this Order implement the Ocean Plan.

The Ocean Plan identifies the following beneficial uses of ocean waters of the state to be protected: Industrial water supply; water contact and non-contact recreation, including aesthetic enjoyment; navigation; commercial and sport fishing; mariculture; preservation and enhancement of designated Areas of Special Biological Significance; rare and endangered species; marine habitat; fish spawning and shellfish harvesting

22. Sediment Quality Control Plan. On September 16, 2008, the State Water Board adopted the Water Quality Control Plan for Enclosed Bays and Estuaries – Part 1 Sediment Quality (Sediment Quality Control Plan). The Sediment Quality Control Plan became effective on August 25, 2009. The Sediment Quality Control Plan establishes 1) narrative sediment quality objectives for benthic community protection from exposure to contaminants in sediment and to protect human health, and 2) a program of implementation using a multiple lines of evidence approach to interpret

ADMINISTRATIVE DRAFT

the narrative sediment quality objectives. Requirements of this Order implement the Sediment Quality Control Plan.

23. National Toxics Rule and California Toxics Rule. USEPA adopted the NTR on December 22, 1992, and later amended it on May 4, 1995 and November 9, 1999. About forty criteria in the National toxics Rule (NTR) applied in California. On May 18, 2000, USEPA adopted the California Toxics Rule (CTR). The CTR promulgated new toxics criteria for California and, in addition, incorporated the previously adopted NTR criteria that were applicable in the state. The CTR was amended on February 13, 2001. These rules contain water quality criteria for priority pollutants

24. Antidegradation Policy. This Order is in conformance with the federal Antidegradation Policy described in 40 CFR 131.12, and State Water Board Resolution No. 68-16, *Statement of Policy with Respect to Maintaining High Quality Waters in California*. Federal regulations at 40 CFR 131.12 require that the State water quality standards include an antidegradation policy consistent with the federal policy. The State Water Board established California's antidegradation policy in State Water Board Resolution No. 68-16. Resolution No. 68-16 incorporates the federal antidegradation policy where the federal policy applies under federal law. Resolution No. 68-16 requires that existing quality of waters be maintained unless degradation is justified based on specific findings. The San Diego Water Board's Basin Plan implements, and incorporates by reference, both the State and federal antidegradation policies.

CONSIDERATIONS UNDER FEDERAL LAW

25. Coastal Zone Act Reauthorization Amendments. Section 6217(g) of the Coastal Zone Act Reauthorization Amendments of 1990 (CZARA) requires coastal states with approved coastal zone management programs to address non-point pollution impacting or threatening coastal water quality. CZARA addresses five sources of non-point pollution: agriculture, silviculture, urban, marinas, and hydromodification. This Order addresses the management measures required for the urban category, with the exception of septic systems. The runoff management programs developed pursuant to this Order fulfill the need for coastal cities to develop a runoff non-point source plan identified in the Non-Point Source Program Strategy and Implementation Plan. The San Diego Water Board addresses septic systems through the administration of other programs.

26. Endangered Species Act. This Order does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the Federal Endangered Species Act (16 USCA sections 1531 to 1544). This Order requires compliance with receiving water limits, and other requirements to protect the beneficial uses of waters of the State. The Copermittees are responsible for meeting all requirements of the applicable Endangered Species Act.

ADMINISTRATIVE DRAFT*CONSIDERATIONS UNDER STATE LAW*

- 27. Unfunded Mandates.** This Order does not constitute an unfunded local government mandate subject to subvention under Article XIII B, Section (6) of the California Constitution for several reasons, including, but not limited to, the following:
- a. This Order implements federally mandated requirements under CWA section 402. (33 USC 1342(p)(3)(B).)
 - b. The local agency Copermittees' obligations under this Order are similar to, and in many respects less stringent than, the obligations of non-governmental and new dischargers who are issued NPDES permits for storm water and non-storm water discharges.
 - c. The local agency Copermittees have the authority to levy service charges, fees, or assessments sufficient to pay for compliance with this Order.
 - d. The Copermittees have requested permit coverage in lieu of compliance with the complete prohibition against the discharge of pollutants contained in CWA section 301(a) (33 USC 1311(a)) and in lieu of numeric restrictions on their MS4 discharges (i.e. effluent limitations).
 - e. The local agencies' responsibility for preventing discharges of waste that can create conditions of pollution or nuisance from conveyances that are within their ownership or control under State law predates the enactment of Article XIII B, Section (6) of the California Constitution.
 - f. The provisions of this Order to implement TMDLs are federal mandates. The CWA requires TMDLs to be developed for water bodies that do not meet federal water quality standards. (33 USC 1313(d).) Once the USEPA or a state develops a TMDL, federal law requires that permits must contain effluent limitations consistent with the assumptions and requirements of any applicable wasteload allocation. (40 CFR 122.44(d)(1)(vii)(B).)
- 28. California Environmental Quality Act.** The issuance of WDRs and an NPDES permit for the discharge of runoff from MS4s to waters of the U.S. is exempt from the requirement for preparation of environmental documents under the California Environmental Quality Act (CEQA) (Public Resources Code, Division 13, Chapter 3, section 21000 et seq.) in accordance with CWC section 13389.

STATE WATER BOARD DECISIONS

- 29. Compliance with Prohibitions and Limitations.** The receiving water limitation language specified in this Order is consistent with language recommended by the USEPA and established in State Water Board Order WQ-99-05, *Own Motion Review of the Petition of Environmental Health Coalition to Review Waste Discharge Requirements Order No. 96-03, NPDES Permit No. CAS0108740*, adopted by the State Water Board on June 17, 1999. The receiving water limitation language in this Order requires compliance with water quality standards, which for storm water discharges is to be achieved through an iterative approach requiring the

FINDINGS

ADMINISTRATIVE DRAFT

implementation of improved and better-tailored BMPs over time. Implementation of the iterative approach to comply with receiving water limitations based on applicable water quality standards is necessary to ensure that storm water discharges from the MS4 ultimately will not cause or contribute to violations of water quality standards and the creation of conditions of pollution, contamination, or nuisance.

30. Special Conditions for Areas of Special Biological Significance. On March 20, 2012, the State Water Board approved Resolution No. 2012-~~004X-0012~~ approving an exception to the Ocean Plan prohibition against discharges to Areas of Special Biological Significance (ASBS) for certain nonpoint source discharges and NPDES permitted municipal storm water discharges. The Resolution requires monitoring and testing of marine aquatic life and water quality in several ASBS to protect California's coastline during storms when rain water overflows into coastal waters. Specific terms, prohibitions, and special conditions were adopted to provide special protections for marine aquatic life and natural water quality in ASBSs. The City of San Diego's municipal storm water discharges to the San Diego Marine Life Refuge in La Jolla, and the City of Laguna Beach's municipal storm water discharges to the Heisler Park ASBS are subject terms and conditions of the Resolution. The Special Protections contained in Attachment B to the Resolution applicable to these discharges are hereby incorporated in this Order as if fully set forth herein.

ADMINISTRATIVE FINDINGS

- 31. Executive Officer Delegation of Authority.** The San Diego Water Board by prior resolution has delegated all matters that may legally be delegated to its Executive Officer to act on its behalf pursuant to CWC section 13223. Therefore, the Executive Officer is authorized to act on the San Diego Water Board's behalf on any matter within this Order unless such delegation is unlawful under CWC section 13223 or this Order explicitly states otherwise.
- 32. Standard Provisions.** Standard Provisions, which apply to all NPDES permits in accordance with 40 CFR 122.41, and additional conditions applicable to specified categories of permits in accordance with 40 CFR 122.42, are provided in [Attachment B](#) to this Order.
- 33. Fact Sheet.** The Fact Sheet for this Order contains background information, regulatory and legal citations, references and additional explanatory information and data in support of the requirements of this Order. The Fact Sheet is hereby incorporated into this Order and constitutes part of the Findings of this Order.
- 34. Public Notice.** The San Diego Water Board notified the Copermittees, and interested agencies and persons of its intent to prescribe WDRs for MS4 discharges of pollutants to waters of the U.S. and has provided them with an opportunity to submit their written comments and recommendations. Details of notification are provided in the Fact Sheet.
- 35. Public Hearing.** The San Diego Water Board held a public hearing on Month Day, 2012 and heard and considered all comments pertaining to the terms and conditions of this Order. Details of the public hearing are provided in the Fact Sheet.

ADMINISTRATIVE DRAFT**II. PROVISIONS**

THEREFORE, IT IS HEREBY ORDERED that the Copermittees, in order to meet the provisions contained in division 7 of the CWC and regulations adopted thereunder, and the provisions of the CWA and regulations adopted thereunder, must each comply with the following:

A. PROHIBITIONS AND LIMITATIONS

The purpose of this provision is to describe the conditions under which ~~storm water and~~ non-storm water discharges into ~~and from the~~ MS4s are to be effectively prohibited or limited, and to describe how pollutants in discharges from the MS4, whether from stormwater or non-stormwater, are to be reduced to the maximum extent practicable (MEP). The goal of this provision is to address the impacts of MS4 discharges so that such discharges do not impair ~~protect, preserve, enhance, and restore the~~ water quality and designated beneficial uses of waters of the state. This goal will be accomplished through implementation of control measures that effectively prohibit non-storm water discharges into ~~and from the~~ Copermittees' MS4s, and reduce pollutants in ~~storm water~~ all discharges from the Copermittees' MS4s to the MEP. The process for determining compliance with the Discharge Prohibitions (A.1), Receiving Water Limitations (A.2), and Effluent Limitations (A.3, including effluent limitations derived from the TMDL requirements – Attachment E) is defined in Provision A.4.

1. Discharge Prohibitions

- a. Except as otherwise permitted herein, Discharges discharges into and from MS4s owned and operated by a Copermittee, in a manner causing, ~~or threatening to cause,~~ a condition of pollution, contamination, or nuisance in ~~receiving~~ waters of the state are prohibited.
- b. Non-storm water discharges into ~~and from~~ MS4s are effectively prohibited, unless such discharges are either authorized by a separate NPDES permit, or the discharge is a category of non-storm water discharges or flows that must be addressed pursuant to Provisions E.2.a.(1)-(5) of this Order.
- c. Discharges from MS4s are subject to all waste discharge prohibitions in the Basin Plan, included in Attachment A to this Order.
- d. ~~Discharges from MS4s to ASBS are prohibited.~~ Storm water discharges from the City of San Diego's MS4 to the San Diego Marine Life Refuge in La Jolla, and the City of Laguna Beach's MS4 to the Heisler Park ASBS are authorized under this Order subject to the Special Protections contained in Attachment B to State Water Board Resolution No. 2012-~~001X-0012~~ applicable to these discharges, included in Attachment A to this Order. All other discharges from MS4s to ASBS are prohibited, unless authorized by a separate Order.

PROVISION A: PROHIBITIONS AND LIMITATIONS
A.1. Discharge Prohibitions
A.2. Receiving Water Limitations

ADMINISTRATIVE DRAFT**2. Receiving Water Limitations**

- a. Discharges from MS4s owned and operated by a Copermitttee must not cause or contribute to the violation of water quality standards in any receiving waters, including but not limited to all applicable provisions contained in the list below to the extent they remain in effect and are operative, unless such discharges are being addressed by the Copermitttee(s) through the processes set forth in this Order (including Provision A.4 below and Attachment E, the TMDL Provisions):

- (1) The San Diego Water Board's Basin Plan, including beneficial uses, water quality objectives, and implementation plans;
- (2) State Water Board plans for water quality control including the following:
 - (a) Water Quality Control Plan for Control of Temperature in the Coastal and Interstate Waters and Enclosed Bays and Estuaries (Thermal Plan), and
 - (b) The Ocean Plan, including beneficial uses, water quality objectives, and implementation plans;
- (3) State Water Board policies for water and sediment quality control including the following:
 - (a) Water Quality Control Policy for the Enclosed Bays and Estuaries of California,
 - (b) Sediment Quality Control Plan which includes the following narrative objectives for bays and estuaries:
 - (i) Pollutants in sediments shall not be present in quantities that, alone or in combination, are toxic to benthic communities, and
 - (ii) Pollutants shall not be present in sediments at levels that will bioaccumulate in aquatic life to levels that are harmful to human health,
 - (c) The Statement of Policy with Respect to Maintaining High Quality of Waters in California (State Water Board Resolution No. 68-16).
- (4) Priority pollutant criteria promulgated by the USEPA through the following:
 - (a) National Toxics Rule (NTR)¹ (promulgated on December 22, 1992 and amended on May 4, 1995), and

¹ 40 CFR 131.36

ADMINISTRATIVE DRAFT(b) California Toxics Rule (CTR)^{2,3}

~~Discharges from MS4s composed of storm water runoff must not alter natural ocean water quality in an ASBS.~~

~~Discharges from MS4s must not cause or contribute to the violation of any receiving water limitations expressed as water quality based effluent limitations (WQBELs) required to meet the WLAs established for the TMDLs in Attachment E to this Order, pursuant to the applicable TMDL compliance schedules.~~

3. Effluent Limitations**a. Technology and Water Quality Based Effluent Limitations (including Effluent Limitations based on TMDLs).**

~~Each Copermittee shall reduce pollutants in discharges from the MS4 to the maximum extent practicable (Pollutants in storm water discharges from MS4s must be reduced to the MEP⁴).~~

~~a. It is understood that compliance with this requirement will be achieved through the use of MEP-compliance best management practices (BMPs) or other controls that are consistent with the MEP standard.~~

~~b. Pollutants in discharges from MS4s must be reduced to comply with any effluent limitations expressed as WQBELs required to meet the WLAs established for the TMDLs in Attachment E to this Order, pursuant to the applicable TMDL compliance schedules.~~

4. Compliance with Discharge Prohibitions, ~~and~~ Receiving Water Limitations, and Effluent Limitations

~~a. Each Copermittee must comply with the discharge prohibitions (A.1), and receiving water limitations (A.2), and effluent limitations (A.3, including effluent limitations developed based on TMDLs) of this Order through timely implementation of control strategies, control measures and other actions as specified in Provisions B, and E, and Attachment E (TMDLs) of this Order. The Water Quality Improvement Plans described in Provision B shall be designed to achieve compliance to the MEP standard with the discharge prohibitions, receiving water limitations, and all effluent limitations. If the Executive Officer approves a Water Quality Improvement Plan and subsequent updates as described in Provision B and F.1, and the plan is being implemented in a timely and good faith manner, such~~

Comment [A1]: It is recommended that this section be replaced with the language similar to what CASQA provided to the State Board. Although this language has been slightly modified, it is consistent with the CASQA language.

² 65 Federal Register 31682-31719 (May 18, 2000), adding Section 131.38 to 40 CFR

³ If a water quality objective and a CTR criterion are in effect for the same priority pollutant, the more stringent of the two applies, unless a previous regulatory action (i.e., TMDL) has specified otherwise.

⁴ This requirement does not apply to MS4 discharges which receive subsequent treatment to reduce pollutants in ~~storm water~~ discharges to the MEP prior to entering receiving waters (e.g., low flow diversions to the sanitary sewer). Runoff treatment must occur prior to the discharge of runoff into receiving waters per Finding 8.

PROVISION A: PROHIBITIONS AND LIMITATIONS

A.3. Effluent Limitations

A.4. Compliance with Discharge Prohibitions and Receiving Water Limitations

ADMINISTRATIVE DRAFT

implementation of the plan shall constitute compliance with Provisions A.1, A.2, and A.3.

b. In instances where discharges from the MS4 for which the permittee is responsible, causes or contributes to an exceedance of any applicable water quality standard or effluent limitation, or causes a condition of nuisance in the receiving water; and the pollutant(s) associated with the discharge is otherwise not specifically addressed by a provision of this Order (such as specific scheduled actions in a Water Quality Improvement Plan), the Permittee shall comply with the following iterative procedure:

1. Submit a report to the Executive Officer that:
 - i. Summarizes and evaluates water quality data associated with the pollutant of concern in the context of the applicable water quality objective, discharge prohibition, or effluent limitation including the magnitude and frequency of the exceedances.
 - ii. Includes a work plan to identify the sources of the constituents of concern (including those not associated with the MS4 such that non-MS4s sources can be pursued).
 - iii. Describes the strategy and schedule for implementing MEP-compliant BMPs and other MEP-compliant controls (including those that are currently being implemented) that will address the Permittee's sources of constituents that are causing or contributing to the exceedances of any applicable water quality standard, discharge prohibition, or effluent limitation, or causing a condition of nuisance, and are reflective of the severity of the exceedances. The strategy shall demonstrate that the selection of BMPs will address the Permittee's sources of constituents and include a mechanism for tracking BMP implementation. The strategy shall provide for future refinement pending the results of the source identification work plan noted above.
 - iv. Outlines, if necessary, additional monitoring to evaluate improvement in water quality and, if appropriate, special studies that will be undertaken to support future management decisions.
 - v. Includes a methodology(ies) that will assess the effectiveness of the BMPs to address the exceedances.
 - vi. This report may be submitted in conjunction with the Annual Report unless the Executive Officer directs an earlier submittal.
2. Submit any modifications to the report that are required by the Executive Officer and that are consistent with the MEP standard within 60 days of notification from the Executive Officer. The report is deemed approved within 60 days of its submission if no response is received from the Executive Officer.

PROVISION A: PROHIBITIONS AND LIMITATIONS

A.3. Effluent Limitations

A.4. Compliance with Discharge Prohibitions and Receiving Water Limitations

ADMINISTRATIVE DRAFT

3. Implement the actions specified in the report in accordance with the acceptance or approval of the Executive Officer, including the implementation schedule.

c. Compliance with the procedure set forth above for the subject pollutant or pollutants shall constitute compliance with the applicable discharge prohibition, receiving water limitation or effluent limitation (including the applicable TMDL) in issue, and the Permittee does not have to repeat the same procedure for continuing or recurring exceedances.

The information developed pursuant to A.4.b must be incorporated into the Water Quality Improvement Plans and/or the jurisdictional runoff management programs, as needed.

a. If exceedance(s) of water quality standards persist in receiving waters notwithstanding implementation of this Order, the Copermittees must comply with the following procedures:

(1) Upon a determination by either the Copermittees or the San Diego Water Board that discharges from the MS4 are causing or contributing to an exceedance of an applicable water quality standard, the Copermittees must submit the following updates to the Water Quality Improvement Plan required under Provision B as part of the Annual Report required under Provision F.3.b, unless the San Diego Water Board directs an earlier submittal:

(a) The water quality improvement strategies being implemented that are effective and will continue to be implemented;

(b) Additional water quality improvement strategies (i.e. BMPs, retrofitting projects, stream and/or habitat rehabilitation or restoration projects) that will be implemented to reduce or eliminate any pollutants or conditions that are causing or contributing to the exceedance of water quality standards;

(c) Updates to the schedule for implementation of the existing and additional water quality improvement strategies; and

(d) Updates, when necessary, to the schedule for achieving compliance with the discharge prohibitions and receiving water limitations of this Order;

(2) The San Diego Water Board may require the incorporation of additional modifications to the Water Quality Improvement Plan required under Provision B. The applicable Copermittees must submit any modifications to the update to the Water Quality Improvement Plan within 30 days of

PROVISION A: PROHIBITIONS AND LIMITATIONS

A.3. Effluent Limitations

A.4. Compliance with Discharge Prohibitions and Receiving Water Limitations

ADMINISTRATIVE DRAFT

~~notification that additional modifications are required by the San Diego Water Board, or as otherwise directed;~~

~~(3) Within 30 days of the San Diego Water Board determination that the update to the Water Quality Improvement Plan meets the requirements of this Order, the Copermitees must revise the jurisdictional runoff management program documents to incorporate the updated water quality improvement strategies that have been and will be implemented, the implementation schedule, and any additional monitoring required; and~~

~~(4) The Copermitees must implement the revised jurisdictional runoff management programs and updated jurisdictional monitoring and assessment component of the Water Quality Improvement Plan.~~

ADMINISTRATIVE DRAFT**B. WATER QUALITY IMPROVEMENT PLANS⁵**

The purpose of this provision is to develop Water Quality Improvement Plans that guide the Copermittees' jurisdictional ~~runoff management program~~ implementation efforts (Provision E) towards achieving the outcome of improved water quality in MS4 discharges and receiving waters. The goal of the Water Quality Improvement Plan is to 1) effectively prohibit non-stormwater discharges into the MS4s, 2) reduce pollutants in stormwater discharges from the MS4s to the MEP, and 3) attain the reasonable protection, ~~preservation, enhancement, and restoration~~ of water quality and designated beneficial uses of waters of the state. Therefore, implementation of the WQIPs also provides the basis for complying with Provisions II.A.1, II.A.2, II.A.3, as described in Provision II.A.4. This goal will be accomplished through an adaptive planning and management process that identifies the highest water quality priorities within a watershed and implements customized strategies, control measures, and BMPs to achieve improvements in the quality of discharges from the MS4s and receiving waters. As such, the requirements outlined in Provision E may be modified for consistency with the Water Quality Improvement Plan for the applicable Watershed Management Area, if appropriate justification is provided.

Development of the Water Quality Improvement Plans allows permittees to customize the requirements in Provision E to address the highest watershed priorities. The Copermittees must develop Water Quality Improvement Plans for each Watershed Management Area that 1) prioritize water quality ~~issues conditions~~ resulting from the Copermittee's MS4 discharges to and from the MS4s within each Watershed Management Area, 2) identify MS4 pollutant sources and other stressors associated with ~~these~~ water quality priorities, 3) define numeric ~~targets goals~~ and schedules to ~~achieve address improvement of~~ water quality priorities, 4) describe water quality improvement strategies to achieve numeric ~~targets goals~~, and 5) develop and execute a coordinated monitoring and assessment program to facilitate adaptive management of the WQIPs and determine progress towards achieving improved water quality those goals.

The Copermittees must submit WQIPs for public review and Regional Board Executive Officer review and approval per the schedule outline in Provision II.B.6. implement all the requirements of Provisions B.1 through B.4 no later than 12-18 months after the adoption of this Order, or in accordance with Provision F.5.a of this Order.

1. Watershed Management Areas

The Copermittees must develop Water Quality Improvement Plans for each of the Watershed Management Areas in Table B-1. A total of ~~nine ten~~ Water Quality Improvement Plans must be developed for the San Diego Region.

Table B-1. Watershed Management Areas

⁵ Once developed and approved, the Water Quality Improvement Plan and corresponding Jurisdictional Runoff Management Plans will functionally replace Load Reduction Plans.

ADMINISTRATIVE DRAFT

Watershed Management Area	Hydrologic Unit(s)	Major Surface Water Bodies	Responsible Copermittees
South Orange County	San Juan (901.00)	Aliso Creek San Juan Creek San Mateo Creek Pacific Ocean	- City of Aliso Viejo ¹ - City of Dana Point ¹ - City of Laguna Beach ¹ - City of Laguna Hills ¹ - City of Laguna Niguel ¹ - City of Laguna Woods ¹ - City of Lake Forest ¹ - City of Mission Viejo ¹ - City of Rancho Santa Margarita ¹ - City of San Clemente ¹ - City of San Juan Capistrano ¹ - County of Orange ¹ - Orange County Flood Control District ¹
Santa Margarita River	Santa Margarita (902.00)	Murrieta Creek Temecula Creek Santa Margarita River Santa Margarita Lagoon Pacific Ocean	- City of Murrieta ² - City of Temecula ² - City of Wildomar ² - County of Riverside ² - County of San Diego ³ - Riverside County Flood Control and Water Conservation District ²
San Luis Rey River	San Luis Rey (903.00)	San Luis Rey River San Luis Rey Estuary Pacific Ocean	- City of Escondido - City of Oceanside - City of Vista - County of San Diego
Carlsbad	Carlsbad (904.00)	<u>Loma Alta Slough</u> Buena Vista Lagoon Agua Hedionda Lagoon Batiqitos Lagoon San Elijo Lagoon Pacific Ocean	- City of Carlsbad - City of Encinitas - City of Escondido - City of Oceanside - City of San Marcos - City of Solana Beach - City of Vista - County of San Diego
San Dieguito River	San Dieguito (905.00)	San Dieguito River San Dieguito Lagoon Pacific Ocean	- City of Del Mar - City of Escondido - City of Poway - City of San Diego - City of Solana Beach - County of San Diego
Penasquitos	Penasquitos (906.00) <u>Reservoir HA (906.10)</u> <u>Poway HA (906.20)</u> <u>Miramar HA (906.40)</u>	Los Penasquitos Lagoon Mission Bay Pacific Ocean	- City of Del Mar - City of Poway - City of San Diego - County of San Diego
<u>Mission Bay</u>	<u>Scripps HA (906.30)</u> <u>Miramar HA (906.40)</u> <u>Teacolote HA (906.50)</u>	<u>Mission Bay</u> <u>Pacific Ocean</u>	- City of San Diego
San Diego River	San Diego (907.00)	San Diego River Pacific Ocean	- City of El Cajon - City of La Mesa - City of Poway - City of San Diego - City of Santee - County of San Diego

PROVISION B: WATER QUALITY IMPROVEMENT PLANS
B.1. Watershed Management Areas

ADMINISTRATIVE DRAFT**Table B-1. Watershed Management Areas**

Watershed Management Area	Hydrologic Unit(s)	Major Surface Water Bodies	Responsible Copermittees
San Diego Bay	Pueblo San Diego (908.00) Sweetwater (909.00) Otay (910.00)	Sweetwater River Otay River San Diego Bay Pacific Ocean	- City of Chula Vista - City of Coronado - City of Imperial Beach - City of La Mesa - City of Lemon Grove - City of National City - City of San Diego - County of San Diego - San Diego County - Regional Airport Authority - Unified Port of San Diego
Tijuana River	Tijuana (911.00)	Tijuana River Tijuana Estuary Pacific Ocean	- City of Imperial Beach - City of San Diego - County of San Diego

Notes:

1. The Orange County Copermittees will be enrolled under this Order upon expiration of Order No. R9-2009-0002, or earlier if the Orange County Copermittees meet the conditions in Provision F.6.
2. The Riverside County Copermittees will be enrolled under this Order upon expiration of Order No. R9-2010-0016, or earlier if the Riverside County Copermittees meet the conditions in Provision F.6.
3. The County of San Diego will not be required to implement the requirements of Provision B for the Santa Margarita River Watershed Management Area until the Riverside County Copermittees are enrolled under this Order. Until then, the County of San Diego is responsible for implementing and complying with the requirements of Provisions D.1, D.4.a.(1)&(3), E, F.2.a-b, F.3.b, and F.4 for the areas of the Santa Margarita River Watershed Management Area within its jurisdiction.

2. Identification of Water Quality Priorities

The Copermittees must identify the water quality priorities within each Watershed Management Area that will be addressed by the Water Quality Improvement Plan. Where appropriate, Watershed Management Areas may be separated into subwatersheds to focus water quality prioritization and jurisdictional runoff management program implementation efforts by receiving water.

a. ASSESSMENT OF RECEIVING WATER CONDITIONS

The Copermittees must ~~consider review pollutant sources, discharges, and receiving water conditions and assess~~ the following, at a minimum, to ~~support determine~~ the identification degree of water quality priorities based on the adverse impacts of MS4 discharges on receiving water beneficial uses:

- (1) Receiving waters listed as impaired on the CWA Section 303(d) List of Water Quality Limited Segments (303(d) List);
- (2) TMDLs adopted and under development by the San Diego Water Board;
- ~~(2)~~(3) The requirements of Provision II.A.2;
- ~~(3)~~(4) Receiving waters recognized as sensitive or highly valued by the Copermittees, including estuaries designated under the National Estuary Program under CWA section 320, wetlands defined by the State or U.S. Fish and Wildlife Service's National Wetlands Inventory as wetlands, and receiving

ADMINISTRATIVE DRAFT

waters identified as ASBS subject to the provisions of Attachment B to State Water Board Resolution No. 2012-~~004X~~-0012 (Attachment A);

~~(4)~~(5) Water quality standards established in the Basin Plan;

~~(5)~~(6) Known historical versus current physical, chemical, and biological water quality conditions;

~~(6)~~(7) All available, relevant, and appropriately collected physical, chemical, and biological receiving water monitoring data meeting appropriate QA/QC standards; including but not limited to, data describing:

(a) Chemical constituents;

(b) Water quality parameters (i.e. pH, temperature, conductivity, etc.);

(c) Toxicity Identification Evaluations for both receiving water column and sediment;

(d) Trash impacts;

(e) Bioassessments; and

(f) Physical habitat.

~~(7)~~(8) Available evidence of erosional impacts in receiving waters due to accelerated flows (i.e. hydromodification); ~~and~~

(9) Available evidence of adverse impacts to the chemical, physical, and biological integrity of receiving waters--; and

~~(8)~~(10) The potential for long-term achievement and maintenance of beneficial use attainment in the Watershed Management Area.

b. ASSESSMENT OF MS4 DISCHARGE QUALITY AND IMPACTS

To support the identification of priorities based on the impacts of MS4 discharges on receiving water beneficial uses, the Copermitees must review appropriately collected MS4 discharge quality data and consider the extent to which MS4s cause or contribute to the adverse impacts to receiving water beneficial uses identified in II.B.2.a. Considerations include:

(1) Locations of the Copermitees' MS4 discharges with respect to receiving waters;

(2) MS4 discharge quality results relevant to impacts in receiving waters and action levels, including the temporal and geographic variation of the results;

ADMINISTRATIVE DRAFT

(3) The requirements of Provisions II.A.1 and II.A.3.; and

(4) Whether MS4 discharge quality is sufficiently well known or other information is available to assess whether MS4 discharges are causing or contributing to specific receiving water conditions, or whether additional data need to be collected through the Monitoring and Assessment Program developed as part of the Water Quality Improvement Plan.

b-c. IDENTIFICATION OF ~~Y~~ PRIORITY ~~POLLUTANTS AND~~ RECEIVING WATER CONDITIONS

The Copermittees must use the information gathered in Provision B.2.a. and B.2.b to develop a list of water quality priorities as pollutants and/or receiving water conditions that are the highest threat to water quality or that most adversely affect the physical, chemical, and biological integrity of receiving waters. The Copermittees must identify the highest water quality priorities to be addressed by the Water Quality Improvement Plan. The WQIPs shall describe the following for each priority receiving water condition:

(1) The beneficial use(s) and pollutant(s) associated with the priority receiving water condition(s);

(2) The geographic extent of the priority receiving water condition(s) within the WMA, if known;

(3) The Copermittees with MS4s that contribute discharges to the priority water receiving condition(s);

(4) The temporal extent of the priority receiving condition(s) (i.e., dry weather and/or wet weather);

(5) Whether receiving waters have been monitored sufficiently to adequately characterize the priority receiving condition(s), including a consideration of spatial and temporal variation; and

(6) The reasoning for selecting specific receiving water conditions as a priority and a subset of priorities as the highest priorities.

e-d. MS4 POLLUTANT SOURCE ~~AND/OR~~ ~~STRESSOR~~ IDENTIFICATION

The Copermittees must identify and prioritize known and suspected storm water and non-storm water pollutant sources within the MS4 associated with and any other stressors causing or contributing to the highest priority receiving water conditions identified under II.B.2.c. quality priorities.—The identification of known and suspected sources of the highest water quality priorities as identified for

ADMINISTRATIVE DRAFT

Provision B.2.c ~~shall~~ **must** consider the following:

~~(1) Land uses and their potential contribution to the highest priority receiving water conditions;~~

~~(1)(2) Pollutant generating facilities ~~or~~, areas, and/or activities within the Watershed Management Area, ~~including~~;~~

~~(2) Each Copermittee's inventory of construction, municipal, commercial, industrial, and residential facilities, areas, and/or activities;~~

~~(3) —~~

~~(4) Publicly owned parks and/or recreational areas;~~

~~(5) —~~

~~(6) Open space areas;~~

~~(7) —~~

~~(8) All currently operating or closed municipal landfills or other treatment, storage or disposal facilities for municipal waste, and~~

~~(9) —~~

~~(10) — Areas not within the Copermittees' jurisdictions (e.g., tribal lands, state lands, federal lands) that may be pollutant sources related to the highest water quality priorities within the Watershed Management Area;~~

~~(11) —~~

~~(12) — Locations of the Copermittees' MS4s, ~~including the following~~;~~

~~(13) —~~

~~(14)(3) All MS4 outfalls that discharge to receiving waters, and~~

~~(15) — Locations of major structural controls for storm water and non-storm water (e.g., retention basins, detention basins, major infiltration devices, etc.);~~

~~(16) —~~

~~(17) — Other known and suspected sources of non-storm water or pollutants in storm water discharges to receiving waters within the Watershed Management Area, ~~including the following~~;~~

~~(18) —~~

~~(19) — Other MS4 outfalls (e.g., Phase II Municipal and Caltrans);~~

~~(20) —~~

~~(21) — Other NPDES permitted discharges;~~

~~(22) —~~

~~(23) — Any other discharges that may be considered point sources (e.g., private outfalls), and~~

~~(24) —~~

~~(25) — Any other discharges that may be considered non-point sources (e.g., agriculture, wildlife or other natural sources);~~

~~(26) —~~

~~(27)(4) _____ Review of available data, including ~~but not limited to~~:~~

(a) Findings from the Copermittees' illicit discharge detection and elimination programs,

ADMINISTRATIVE DRAFT

(b) Findings from the Copermittees' MS4 outfall monitoring,

~~(c) Findings from the Copermittees' receiving water monitoring,
(d)~~

~~(e) Findings from the Copermittees' MS4 discharges and receiving water assessments, and~~

~~(f)~~

~~(g)(c)~~ Any other ~~Other~~ available, relevant, and appropriately-collected data, information, or studies related to pollutant sources and ~~conditions~~ pollutant-generating activities that contribute to the highest priority receiving water quality priorities as conditions identified ~~for in~~ Provision II.B.2.b.

~~(28)(5)~~ Whether MS4 sources are sufficiently well known to design an effective, directed control strategy, or whether additional source/stressor identification needs to be conducted through the Monitoring and Assessment Program developed as part of the Water Quality Improvement Plan to identify and prioritize sources/stressors within the watershed.

d.e. NUMERIC TARGETS GOALS AND SCHEDULES

The Copermittees must develop and incorporate interim and final numeric ~~targets⁶ and schedules goals⁷~~ into the Water Quality Improvement Plans. Numeric ~~targetsgoals~~ and schedules ~~must be used~~ are intended to support Water Quality Improvement Plan development and to measure progress towards addressing the highest priority receiving water conditions identified under II.B.2.b ~~water quality priorities and an ultimate outcome of protections, preservation, enhancement, and restoration of.~~ Numeric goals themselves are not enforceable compliance standards, effluent limitations, or receiving water beneficial uses limitations. When ~~developing~~ establishing numeric ~~targetsgoals~~ and corresponding schedules, the Copermittees must consider the following:

⁶ ~~Interim and final numeric targets may take a variety of forms such as pollutant concentration, load reductions, number of impaired water bodies delisted from the List of Water Quality Impaired Segments, Index of Biotic Integrity (IBI) scores, or other appropriate metrics. Interim and final numeric targets are not necessarily limited to one criterion or indicator, but may include multiple criteria and/or indicators.~~

⁷ ~~Interim and final numeric goals may take a variety of forms such as TMDL targets, TMDL wasteload allocations, TMDL based WQBELs incorporated in Attachment E of this Order, action levels, pollutant concentration, load reductions, number of impaired water bodies delisted from the List of Water Quality Impaired Segments, Index of Biotic Integrity (IBI) scores, or other appropriate metrics. Interim and final numeric goals are not necessarily limited to one criterion or indicator, but may include multiple criteria and/or indicators. To the extent that a goal is not based on an enforceable regulatory mechanism (i.e., TMDL, WLA), WQIP goals and schedules may be revised through the iterative process. Numeric goals are not subject to enforcement or non-compliance actions under this Order.~~

ADMINISTRATIVE DRAFT

- (1) Final numeric ~~targets~~goals must be based on measurable criteria or indicators, to be achieved in the receiving waters and/or MS4 discharges for the highest priority receiving water quality ~~priority~~conditions which will ~~result in~~ be capable of demonstrating progress toward the achievement of the restoration and/or protection of water quality standards in receiving waters; and
- (2) Interim numeric ~~targets~~goals must be based on measurable criteria or indicators that can demonstrate incremental progress toward achieving the final numeric ~~targets~~goals in the receiving waters and/or MS4 discharges; and
- ~~(3) Schedules must be adequate for measuring progress toward achieving the interim and final numeric targets required for Provisions B.2.d. and B.2.d.. Schedules must incorporate the following:~~

3. Water Quality Improvement Strategies and Schedules

The Copermittees must develop specific water quality improvement strategies to address the highest ~~water quality~~ priority ~~ies~~ receiving water conditions identified within a Watershed Management Area. The water quality improvement strategies must address the highest water quality priorities by preventing or eliminating non-storm water discharges to and from the MS4, reducing pollutants in storm water discharges from the MS4 to the MEP, and restoring and/or protecting the water quality standards of receiving waters.

a. WATER QUALITY IMPROVEMENT STRATEGIES

The water quality improvement strategies must prioritize, based on their likely effectiveness and efficiency, and implement ~~the following~~ measures, as appropriate, to effectively prohibit non-storm water discharges into its MS4, reduce pollutants in storm water discharges from its MS4 to the MEP, and achieve the interim and final numeric ~~targets~~goals in accordance with the schedules ~~required for~~ in Provision ~~II.B.2.d.e.~~ II.B.2.e. Measures include:

- (1) Activities identified in Provision E, either as described in the jurisdictional runoff management programs or as modified with justification, that will address priority receiving water conditions; and
- ~~(1) Additional S~~ structural and/or non-structural BMPs that are designed to achieve the interim and final numeric goals identified in Provision II.B.2.e. targets in the receiving waters and/or MS4 discharges;
- ~~(2)~~

ADMINISTRATIVE DRAFT

~~(3) Retrofitting projects for areas of existing development known or suspected to contribute to the highest water quality priorities, and where retrofitting will contribute to reducing or eliminating non-storm water discharges to the MS4 and/or reducing pollutants in storm water discharges from the MS4 to the MEP;~~

~~(4)~~

~~(5)(2) Stream and/or habitat rehabilitation or restoration projects where stream and/or habitat rehabilitation or restoration are necessary for, or will contribute to demonstrable improvements in the physical, chemical, and biological receiving water conditions and restoration and/or protection of water quality standards in receiving waters; and~~

~~Other water quality improvement strategies that will result in preventing or eliminating non-storm water discharges to and from the MS4, reducing pollutants in storm water discharges from the MS4 to the MEP, and restoring and/or protecting the water quality standards of receiving waters.~~

ADMINISTRATIVE DRAFT**b. IMPLEMENTATION SCHEDULES**

The Copermittees must develop schedules for implementing the water quality improvement strategies identified under Provision II.B.3.a to achieve the interim and final numeric ~~targets~~goals identified in ~~the receiving waters and/or MS4 discharges for the highest water quality priorities~~B.2.e in the Watershed Management Area. Schedules must be developed for both the water quality improvement strategies implemented by each Copermittee within its jurisdiction and for strategies that ~~will be implemented by multiple Copermittees~~ Copermittees' choose to implement on a collaborative basis. Schedules must incorporate the following:

- (a) Interim dates for achieving the interim numeric ~~targets~~goals;
- (b) Compliance schedules for any applicable TMDLs in Attachment E to this Order;
- (c) Compliance schedules for any ASBS subject to the provisions of Attachment B to State Water Board Resolution No. 2012-001~~2~~X (see Attachment A);
- (d) Achievement of the final numeric ~~goal~~targets in the receiving waters and/or MS4 discharges for the highest water quality priorities must be as soon as possible, and
- (e) Final dates for achieving the final numeric ~~targets~~goals must not extend more than 10 years beyond the date this Order is adopted, unless the schedule includes an applicable TMDL in Attachment E to this Order⁸

⁸ Achievement of final numeric goals within 10 years represents progress towards attainment of water quality standards, but is not a requirement to fully attain all applicable water quality standards or all priority receiving water conditions within 10 years.

ADMINISTRATIVE DRAFT**4. Water Quality Improvement Monitoring and Assessment**

The Copermittees in each Watershed Management Area must develop an integrated ~~program to assess the~~ Water Quality Improvement Plan Monitoring and Assessment Program that assesses: 1) progress toward achieving the numeric ~~targets~~goals and schedules, and 2) the progress toward addressing the highest priority receiving water quality prioritiesconditions for each Watershed Management Area, and 3) each Copermittee's overall efforts implementing the requirements of Provision B. The water quality improvement monitoring and assessment program must include the monitoring and assessment requirements of Provision D, which may be modified for consistency with the priority receiving water conditions of each Watershed Management Area and associated Copermittees. For Watershed Management Areas with applicable TMDLs, the water quality monitoring and assessment program must incorporate the specific monitoring and assessment requirements of Attachment E. For Watershed Management Areas with any ASBS, the water quality monitoring and assessment program must also incorporate the monitoring requirements of Attachment B to State Water Board Resolution No. 2012-001~~2~~X (see Attachment A).

5. Adaptive Management Process**~~1. WATER QUALITY IMPROVEMENT PLAN ADAPTIVE MANAGEMENT PROCESS~~**

The Copermittees in each Watershed Management Area must implement the iterative process, ~~at least once every 3 years,~~ adapting the Water Quality Improvement Plan to become more effective, based on, but not limited to and meet the requirements of Provisions II.A, and shall consider the following ~~considerations~~:

a. PRIORITY RECEIVING WATER CONDITIONS AND NUMERIC GOALS

The priority receiving water conditions and numeric goals, developed pursuant to II.B.2.c. and II.B.2.e respectively, shall guide jurisdictional implementation efforts for the duration of this Order. Recommendations for changes to priority receiving water conditions and numeric goals shall be provided in the Report of Waste Discharge and shall consider the following:

- (1) Achieving the outcome of improved water quality in MS4 discharges and receiving waters through implementation of the water quality improvement strategies identified in the Water Quality Improvement Plan;
- (2) Progress toward achieving interim and final numeric ~~targets~~goals in receiving waters and/or MS4 discharges for the highest water quality priorities in the Watershed Management Area;
- ~~(3) Appropriateness of the highest water quality priorities identified for the Watershed Management Area;~~
- ~~(4)-~~
- ~~(5) Progress toward achieving outcomes according to established schedules;~~

~~(6)~~

~~(3) New scientific information or new or updated policies or regulations that affect identified numeric goals including revised water quality objectives or TMDLs;~~

~~(7)(4) Spatial and temporal accuracy of monitoring data collected to inform prioritization of water quality problems and implementation measures to address the highest priority receiving water quality problems/conditions;~~

~~(8)(5) Availability of new information and data from sources other than the jurisdictional runoff management programs within the Watershed Management Area that informs the effectiveness of the actions implemented by the Copermittees;~~

~~(6) The factors listed in Provision II.B.2.a.(1)-(10);~~

~~(9)(7) San Diego Water Board recommendations; and~~

~~(10)(8) Recommendations for modifications to the Water Quality Improvement Plan solicited through a public participation process.~~

~~b. Based on the results of the iterative process WATER QUALITY IMPROVEMENT STRATEGIES AND SCHEDULES~~

~~(11) The water quality improvement strategies and schedules required pursuant to Provision B.5.a., the II.B.3 shall be adapted as new information becomes available to inform more effective and efficient means of achieving the numeric goals established in II.B.2.e. Copermittees must report any modifications necessary shall consider adaptation to improve the effectiveness of the Water Quality Improvement Plan in the Annual Report required pursuant to Provision , or as part of the Report of Waste Discharge (ROWD) required pursuant to Provision F.5..~~

~~(12) The Copermittees must implement any modifications to the Water Quality Improvement Plan in accordance with the schedules developed pursuant to Provisions B.2. and B.3., unless directed otherwise by the San Diego Water Board.~~

~~2. JURISDICTIONAL RUNOFF MANAGEMENT PROGRAM ADAPTIVE MANAGEMENT PROCESS~~

~~Each Copermittee in the Watershed Management Area must implement the iterative process, jurisdictional runoff management programs and monitoring and assessment strategies and schedules at least annually, adapting its jurisdictional runoff management program to become more effective, based on, but not limited to considering the following:~~

(1) Changes to priority receiving water conditions and numeric goals based on recommendations from II.B.5.a.;

~~(1)~~(2) Measurable or demonstrable reductions of non-storm water discharges to ~~and from~~ each Copermitee's MS4;

~~(2)~~(3) Measurable or demonstrable reductions of pollutants in storm water discharges from each Copermitee's MS4 to the MEP;

(4) Information on the MS4 sources and/or pollutant-generating activities determined to be most significantly contributing to priority receiving water conditions;

~~(3)~~(5) Efficiency in implementing the Water Quality Improvement Plan;

~~(4)~~(6) San Diego Water Board recommendations; and

~~(5)~~(7) Recommendations for modifications ~~to each Copermitee's jurisdictional runoff management program~~ solicited through a public participation process.

6. Water Quality Improvement Plan Submittal, Implementation, and Modifications

a. PRIORITY RECEIVING WATER CONDITIONS, MS4 SOURCES, AND NUMERIC GOALS

~~The Based on Copermitees in each Watershed Management Area must submit the results of the iterative process proposed priority receiving water conditions, MS4 sources, and numeric goals required pursuant to Provisions II.B.2.c-e. for San Diego Water Board Executive Officer review and approval no later than 6 months following adoption of this Order. Priority receiving water conditions, MS4 sources, and numeric goals are deemed approved if no response is provided to the Copermitees within 2 months of the submittal date.~~

b. WATER QUALITY IMPROVEMENT PLANS

~~Copermitees shall commence development of the remaining portions of the Water Quality Improvement Plans upon approval of the priority receiving water conditions, MS4 sources, and numeric goals by the San Diego Water Board Executive Officer in II.B.6.a. and must submit complete Water Quality Improvement Plans for San Diego Water Board review and approval no later than 12 months thereafter. Water Quality Improvement Plans are deemed approved if no response is provided to the Copermitees within 2 months of the submittal date. Copermitees must commence with implementation of the Water Quality Improvement Plan no later than 180 days after submission, unless otherwise directed in writing by the San Diego Water Board, the fiscal year (July 1) following San Diego Water Board approval of the Water Quality~~

Improvement Plan.

c. WATER QUALITY IMPROVEMENT PLAN MODIFICATIONS

~~(a) Copermitees must submit requested modifications necessary to improve the effectiveness its jurisdictional runoff management program document the Water Quality Improvement Plan either in the Annual Report required pursuant to Provision II.F.3.b, or as part of the Report of Waste Discharge (ROWD) required pursuant to Provision II.F.5.~~

~~Each Copermitee. b. Once approved by the San Diego Water Board Executive Officer, the Copermitees must implement any modifications to its jurisdictional runoff management program the Water Quality Improvement Plan in accordance with the schedules developed pursuant to Provisions B.2. and B.3., unless directed otherwise by the San Diego Water Board II.B.2 and II.B.3.b. Requests for modification are deemed approved if no response is provided to the requesting Copermitee(s) within 2 months of the request date.~~

d. JURISDICTIONAL RUNOFF MANAGEMENT PROGRAM MODIFICATIONS

~~Copermitees must submit requested modifications to the jurisdictional runoff management programs either in the Annual Report required pursuant to Provision II.F.3.b, or as part of the Report of Waste Discharge (ROWD) required pursuant to Provision II.F.5.b. Once approved by the San Diego Water Board Executive Officer, the Copermitees must implement any modifications to the Water Quality Improvement Plan in accordance with the schedules developed pursuant to Provisions II.B.3.b. Requests for modification are deemed approved if no response is provided to the requesting Copermitee(s) within 2 months of the request date.~~

6. Water Quality Improvement Plan Implementation

~~Copermitees must commence with implementation of the Water Quality Improvement Plan no later than 180 days after submission, unless otherwise directed in writing by the San Diego Water Board.~~

C. ACTION LEVELS

The purpose of this provision is for the Copermittees to incorporate numeric non-storm water and storm water action levels in the Water Quality Improvement Plans and numeric non-storm water action levels in the IDDE Program. The action levels ~~will~~shall be used to guide the following program planning efforts and measure progress towards attaining the reasonable protection, preservation, and enhancement, and restoration of water quality and designated beneficial uses of waters of the state. ~~This goal will be accomplished through monitoring and assessing the quality of the MS4 discharges during the implementation of the Water Quality Improvement Plans.;~~

- ~~1) The Copermittees must incorporate numeric action levels in the Support development and prioritization of water quality improvement strategies through the Water Quality Improvement Plans to direct and focus. Discharge data above action levels can be evaluated using a statistical approach considering the Copermittees' jurisdictional runoff management program implementation efforts for addressing MS4 frequency, magnitude, and loading of discharges to the receiving waters. The numeric action levels will be used as part of the MS4 to support development of actions and prioritization of their implementation.~~
- ~~2) Assist in the effective prohibition of non-stormwater discharges assessments required under from the MS4 pursuant to Provision , and each Copermittee's program to detect and eliminate non-storm water E.2.~~
- ~~3) Support the detection and elimination of illicit discharges to the MS4 required under pursuant to Provision . Numeric E.2.~~

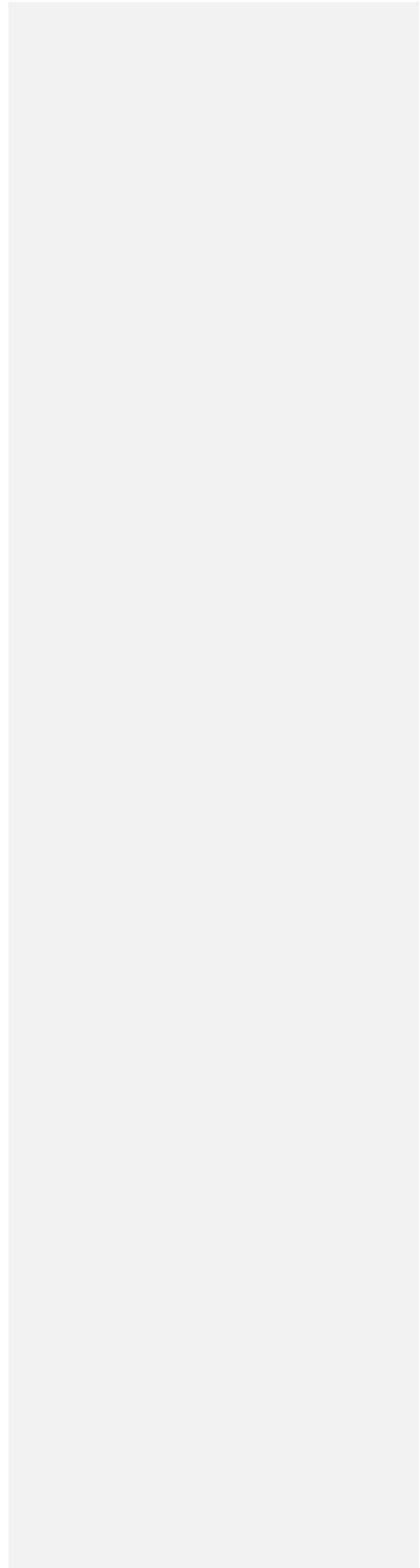
These goals will be accomplished through monitoring and assessing the quality of the MS4 discharges prior to and during the implementation of the Water Quality Improvement Plans and as a part of the IDDE program. Exceedances of action levels are not subject to enforcement or non-compliance actions under this Order.

Action levels will be developed and incorporated into the Water Quality Improvement Plans (Provision B) and including the Illicit Discharge Detection and Elimination (IDDE) Program (Provision E.2). Depending upon the goals/objectives for the use of the action levels must be developed and the priority receiving water conditions, the constituents and values at which they are set may differ between watersheds. Copermittees may develop Watershed Management Area specific numeric action levels for non-storm water and storm water MS4 discharges using an approach approved by the Regional Board or use the default non-stormwater and stormwater action levels prescribed within C.1 and C.2 below, respectively. The Copermittees will submit action levels as part of their Water Quality Improvement Plan(s). The action levels currently established as follows: part of R9-2007-0001 will serve as the interim action levels until the Water Quality Improvement Plans revised action levels are completed and approved.

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PROVISION C: ACTION LEVELS
C.1. Non-Storm Water Action Levels



1. Non-Storm Water Action Levels

The following non-storm water action levels (NALs) must be incorporated in the Water Quality Improvement Plan and IDDE program if the Permittees have not developed their own NALs using an approach approved by the Regional Board EO:

- a. The following non-storm water action levels (NALs) must be incorporated ~~in the Water Quality Improvement Plan:~~

(1) Non-Storm Water Discharges from MS4s to Ocean Surf Zone

Table C-1. Non-Storm Water Action Levels for Discharges from MS4s to Ocean Surf Zone

Parameter	Units	AMAL	MDAL	Instantaneous Maximum	Basis
Total Coliform	MPN/100 ml	1,000	-	10,000/1,000 ¹	OP
Fecal Coliform	MPN/100 ml	200 ²	-	400	OP
<i>Enterococci</i>	MPN/100 ml	35	-	104 ³	OP

Abbreviations/Acronyms

AMAL – average monthly action level
OP – Ocean Plan water quality objective

MDAL – maximum daily action level
MPN/100 ml – most probable number per 100 milliliters

Notes:

- 1. Total coliform density ~~shall not exceed~~NAL is 1,000 MPN/100 ml when the fecal/total coliform ratio exceeds 0.1
- 2. Fecal coliform density ~~may not exceed~~NAL is 200 MPN per 100 ml during any 30 day period
- 3. This value has been set to the Basin Plan water quality objective for saltwater "designated beach areas"

(2) Non-Storm Water Discharges from MS4s to Bays, Harbors, and Lagoons/Estuaries

Table C-2. Non-Storm Water Action Levels for Discharges from MS4s to Bays, Harbors, and Lagoons/Estuaries

Parameter	Units	AMAL	MDAL	Instantaneous Maximum	Basis
Turbidity	NTU	75	-	225	OP
pH	Units	Within limit of 6.0 to 9.0 at all times			OP
Fecal Coliform	MPN/100 ml	200 ¹	-	400 ²	BP
<i>Enterococci</i>	MPN/100 ml	35	-	104 ³	BP
Priority Pollutants	ug/L	See Table C-3			

Abbreviations/Acronyms:

AMAL – average monthly action level
 OP – Ocean Plan water quality objective
 NTU – Nephelometric Turbidity Units
 ug/L – micrograms per liter
 MDAL – maximum daily action level
 BP – Basin Plan water quality objective
 MPN/100 ml – most probable number per 100 milliliters

Notes:

1. Based on a minimum of not less than five samples for any 30-day period
2. **NAL is reached if n**No more than 10 percent of total samples may exceed 400 MPN per 100 ml during any 30 day period
3. This value has been set to the Basin Plan water quality objective for saltwater "designated beach areas" **and is not applicable to waterbodies that are not designated REC-1**

Table C-3. Non-Storm Water Action Levels for Priority Pollutants

Parameter	Units	Freshwater (CTR)		Saltwater (CTR)	
		MDAL	AMAL	MDAL	AMAL
Cadmium	ug/L	**	**	16	8
Copper	ug/L	*	*	5.8	2.9
Chromium III	ug/L	**	**	-	-
Chromium VI	ug/L	16	8.1	83	41
Lead	ug/L	*	*	14	2.9
Nickel	ug/L	**	**	14	6.8
Silver	ug/L	*	*	2.2	1.1
Zinc	ug/L	*	*	95	47

Abbreviations/Acronyms:

CTR – California Toxic Rule
 AMAL – average monthly action level
 MDAL – maximum daily action level
 ug/L – micrograms per liter

Notes:

- * Action levels developed on a case-by-case basis (see below)
- ** Action levels developed on a case-by-case basis (see below), but calculated criteria are not to exceed Maximum Contaminant Levels (MCLs) under the California Code of Regulations, Title 22, Division 4, Chapter 15, Article 4, Section 64431

The Cadmium, Copper, Chromium (III), Lead, Nickel, Silver and Zinc NALs for MS4 discharges to freshwater receiving waters will be developed on a case-by-case basis because the freshwater criteria are based on site-specific water quality data (receiving water hardness). For these priority pollutants, the following equations (40 CFR 131.38.b.2) will be required:
 Cadmium (Total Recoverable) = $\exp(0.7852[\ln(\text{hardness})] - 2.715)$
 Chromium III (Total Recoverable) = $\exp(0.8190[\ln(\text{hardness})] + .6848)$
 Copper (Total Recoverable) = $\exp(0.8545[\ln(\text{hardness})] - 1.702)$
 Lead (Total Recoverable) = $\exp(1.273[\ln(\text{hardness})] - 4.705)$
 Nickel (Total Recoverable) = $\exp(.8460[\ln(\text{hardness})] + 0.0584)$
 Silver (Total Recoverable) = $\exp(1.72[\ln(\text{hardness})] - 6.52)$
 Zinc (Total Recoverable) = $\exp(0.8473[\ln(\text{hardness})] + 0.884)$

PROVISION C: ACTION LEVELS
 C.1. Non-Storm Water Action Levels

(3) Non-Storm Water Discharges from MS4s to Inland Surface Waters

Table C-4. Non-Storm Water Action Levels for Discharges from MS4s to Inland Surface Waters

Parameter	Units	AMAL	MDAL	Instantaneous Maximum	Basis
Dissolved Oxygen	mg/L	Not less than 5.0 in WARM waters and not less than 6.0 in COLD waters			BP
Turbidity	NTU	-	20	See MDAL	BP
pH	Units	Within limit of 6.5 to 8.5 at all times			BP
Fecal Coliform	MPN/100 ml	200 ¹	-	400 ²	BP
<i>Enterococci</i>	MPN/100 ml	33	-	61 ³	BP
Total Nitrogen	mg/L	-	1.0	See MDAL	BP
Total Phosphorus	mg/L	-	0.1	See MDAL	BP
MBAS	mg/L	-	0.5	See MDAL	BP
Iron	mg/L	-	0.3	See MDAL	BP
Manganese	mg/L	-	0.05	See MDAL	BP
Priority Pollutants	ug/L	See Table C-3			

Abbreviations/Acronyms:

AMAL – average monthly action level	MDAL – maximum daily action level
BP – Basin Plan water quality objective	WARM – warm freshwater habitat beneficial use
COLD – cold freshwater habitat beneficial use	MBAS – Methylene Blue Active Substances
NTU – Nephelometric Turbidity Units	MPN/100 ml – most probable number per 100 milliliters
mg/L – milligrams per liter	ug/L – micrograms per liter

Notes:

1. Based on a minimum of not less than five samples for any 30-day period
2. NAL is reached if nNo more than 10 percent of total samples may exceed 400 MPN per 100 ml during any 30 day period
3. This value has been set to the Basin Plan water quality objective for freshwater "designated beach areas" and is not applicable to waterbodies that are nor designated REC-1.

b. If not identified in Provision [C.1.a](#), NALs must be identified and incorporated in the Water Quality Improvement [Plan-Plan and/or IDDE program](#) for any pollutants or waste constituents [that causing or contributing, or are](#) threatening to cause or contribute to a condition of pollution or nuisance in waters of the state associated with the highest water quality priorities related to non-storm water discharges from the MS4s. NALs must be based on:

- (1) Applicable water quality standards which may be dependent upon site-specific or receiving water-specific conditions or assumptions to be identified by the Copermittees; or
- (2) Applicable numeric WQBELs required to meet the WLAs established for the TMDLs in [Attachment E](#) to this Order.

c. Dry weather monitoring and assessment data from MS4 outfalls collected in accordance with Provision D.1.a may be used to develop or revise NALs based upon watershed-specific data. Revision of NALs is subject to Regional Board EO approval.

2. Storm Water Action Levels

The following storm water action levels (SALs) must be incorporated in the Water Quality Improvement Plan if the Permittees have not developed their own SALs using an approach approved by the Regional Board EO:

- a. The following storm water action levels (SALs) for discharges of storm water from the MS4 must be incorporated ~~in the Water Quality Improvement Plan~~:

Table C-5. Storm Water Action Levels for Discharges from MS4s to Receiving Waters

Parameter	Units	Action Level
Turbidity	NTU	126
Nitrate & Nitrite (Total)	mg/L	2.6
Phosphorus (Total P)	mg/L	1.46
Cadmium (Total Cd)*	µg/L	3.0
Copper (Total Cu)*	µg/L	127
Lead (Total Pb)*	µg/L	250
Zinc (Total Zn)*	µg/L	976

Abbreviations/Acronyms:

NTU – Nephelometric Turbidity Units
mg/L – milligrams per liter
µg/L – micrograms per liter

Notes:

- * The sampling must include a measure of receiving water hardness at each MS4 outfall. If a total metal concentration exceeds the corresponding metals SAL in Table C-5, that concentration must be compared to the California Toxics Rule criteria and the USEPA 1-hour maximum concentration for the detected level of receiving water hardness associated with that sample. If it is determined that the sample's total metal concentration for that specific metal exceeds that SAL, but does not exceed the applicable USEPA 1-hour maximum concentration criterion for the measured level of hardness, then the sample result will not be considered ~~as an excursion~~ above the SAL for that measurement.

- b. If not identified in Provision C.2.a, SALs must be identified and incorporated in the Water Quality Improvement Plan for pollutants or waste constituents ~~that causeing~~ or ~~contributeing~~, or ~~are~~ threatening to cause or contribute to a condition of pollution or nuisance in waters of the state associated with the highest water quality priorities related to storm water discharges from the MS4s. SALs must be based on:

(1) Federal and State water quality guidance and/or water quality standards;
~~and/or~~

(2) Site-specific or receiving water-specific conditions; or

~~(2)~~(3) One of the approaches recommended by the California Water Board's Storm Water Panel in its report, "The Feasibility of Numerical Effluent Limits Applicable to Discharges of Storm Water Associated with Municipal, Industrial and Construction Activities" (June 2006); or

~~(3)~~(4) Applicable numeric WQBELs required to meet the WLAs established for the TMDLs in Attachment E to this Order.

- c. Wet weather monitoring and assessment data from MS4 outfalls collected in accordance with Provision [D.1.b](#) may be used to develop or revise SALs based upon watershed-specific data. Revision of SALs is subject to ~~San Diego~~ [WaterRegional](#) Board [EO](#) approval.

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D. MONITORING AND ASSESSMENT REQUIREMENTS

The purpose of this provision is for the Copermittees to monitor and assess the chemical, physical, and biological impact on receiving waters caused by discharges from the Copermittees' MS4s under wet weather and dry weather conditions. The goal of this provision is to inform the Copermittees about the nexus between the health of receiving waters and the water quality condition of the discharges from their MS4s. This goal will be accomplished through implementing and complying with the monitoring and assessment requirements of this Order.

The Copermittees must implement the following minimum monitoring and assessment requirements:

1. Jurisdictional Monitoring Requirements

b-a. DRY WEATHER JURISDICTIONAL MONITORING [D.1.a]

For dry weather days,⁹ each Copermittee must implement the following minimum monitoring requirements within its jurisdiction:

(1) Non-Storm Water MS4 Monitoring Program [D.1.a.(1)]

Each Copermittee must develop and conduct a program to monitor and characterize non-storm water flows and pollutant loads during dry weather conditions within its jurisdiction. The non-storm water MS4 monitoring program must be utilized to detect and eliminate non-storm water discharges and illicit discharges and connections to the Copermittee's MS4. Any available monitoring data not collected specifically to meet these requirements may be utilized by the Copermittee. The non-storm water MS4 monitoring program must meet the following minimum requirements:

(a) Non-Storm Water MS4 Monitoring Stations [D.1.a.(1)(a)]

Each Copermittee must identify the non-storm water MS4 monitoring stations within its jurisdiction that will be screened and monitored during dry weather days to identify non-storm water discharges and illicit discharges and connections to the MS4. Non-storm water MS4 monitoring stations must be selected in accordance with the following guidelines and criteria:

- (i) A grid system consisting of perpendicular north-south and east-west lines spaced $\frac{1}{4}$ mile apart must be overlaid on a map of the Copermittee's MS4. All cells that contain a segment of the Copermittee's MS4 must be identified;

⁹ Dry weather day is defined as any day with less than 0.1 inches of rain observed on each of the previous 3 days.

Comment [A2]: The Orange County Copermittees are working on revised monitoring language with the San Diego County Copermittees. While the OC Copermittees do not have specific language that can be offered at this time, the Monitoring Principles that we would like to see incorporated as a part of the monitoring program are included as an attachment.

- (ii) At least one non-storm water MS4 monitoring station must be selected in each cell containing a segment of the Copermittee's MS4, which must consist of one of the following:
 - [a] A major outfall,
 - [b] Other outfall point, or
 - [c] Other point of access (e.g., manhole);
- (iii) Each non-storm water MS4 monitoring station should be located downstream of any areas that are known or suspected to be sources of non-storm water discharges and/or illicit discharges or connections to the MS4;
- (iv) Each non-storm water MS4 monitoring station must be located to the degree practicable at the farthest outfall, manhole, or other accessible location downstream in the MS4, within each cell;
- (v) In addition to the non-storm water MS4 monitoring stations identified in accordance with Provisions [D.1.a.\(1\)\(a\)\(i\)-\(iv\)](#) above, each Copermittee must identify stations that will be screened and monitored during dry weather days to identify non-storm water discharges from sources not directly under the jurisdiction of the Copermittee.¹⁰ These stations must be selected in accordance with the following guidelines and criteria:
 - [a] Stations should be located at or prior to the point of discharge into the Copermittee's MS4, but may be located downstream of the source as long as the station remains appropriate for characterizing the discharge from the source not within the authority of the Copermittee to control,
 - [b] Any non-storm water MS4 monitoring station identified in accordance with Provisions [D.1.a.\(1\)\(a\)\(i\)-\(iv\)](#) and located at the point of discharge or directly downstream of a known or suspected source of non-storm water discharges not within the authority of the Copermittee to control may also be utilized as a station to monitor the source not within the authority of the Copermittee to control;
- (vi) The following factors should be considered in determining the location of each non-storm water MS4 monitoring station:
 - [a] Safety of personnel and accessibility of the location,
 - [b] Total area draining to the location,
 - [c] Population density of the area draining to the location,
 - [d] Traffic density,
 - [e] Age of the structures or buildings in the area,

¹⁰ Sources not directly under the jurisdiction of and subject to regulation by the Copermittee may include lands or areas under the jurisdiction of other Copermittees, owners or operators of federal and state lands or facilities, tribal lands, special districts, etc.

- [f] History of the area,
 - [g] Land use types draining to the location,
 - [h] Hydrological conditions, and
 - [i] Recommendations from the San Diego Water Board; and
- (vii) No more than 500 non-storm water MS4 monitoring stations need to be selected by each Copermittee within its jurisdiction for any given year.

(b) Non-Storm Water MS4 Station Prioritization [D.1.a.(1)(b)]

Based on the first year of non-storm water field observations collected consistent with the Provision [D.1.a.\(1\)\(c\)\(i\)](#), each Copermittee must identify the high priority non-storm water MS4 monitoring stations. The non-storm water MS4 monitoring stations that meet the following criteria must be identified as high priority:

- (i) The Copermittee has not identified and eliminated the source of the non-storm water discharges; or
- (ii) The Copermittee has not been able to eliminate the source of an identified illicit discharge, and
- (iii) The non-storm water discharges and/or illicit discharges are known or suspected to contribute and/or contain pollutants that cause or contribute, or threaten to cause or contribute to a condition of pollution or nuisance associated with the highest water quality priorities related to discharges from the MS4s.
- (iv) The Copermittee may also designate any non-storm water MS4 monitoring stations that do not meet the criteria above as high priority.

(c) Non-Storm Water Monitoring Procedures [D.1.a.(1)(c)]

Each Copermittee must monitor the non-storm water MS4 monitoring stations within its jurisdiction as follows:

- (i) *Non-Storm Water Field Observations* [D.1.a.(1)(c)(i)]
 - [a] Monitoring events for each non-storm water MS4 monitoring station must be scheduled as follows:
 - [1] During the first year of enrollment under this Order, the Copermittee must record field observations consistent with [Table D-1](#) at each non-storm water MS4 monitoring station within its jurisdiction at least one time per month;

Table D-1. Field Observations for Non-Storm Water MS4 Monitoring Stations

Field Observations
<ul style="list-style-type: none"> • Station identification and location. • Presence of flow, or pooled or ponded water. • If flow is present: <ul style="list-style-type: none"> - Flow estimation (i.e. width of water surface, approximate depth of water, approximate flow velocity, flow rate), - Flow characteristics (i.e. presence of floatables, surface scum, or sheens, odor, color), - Flow source(s) suspected or identified from non-storm water source investigation, and - Flow source(s) eliminated during non-storm water source identification. • If pooled or ponded water is present: <ul style="list-style-type: none"> - Characteristics of pooled or ponded water (i.e. presence of floatables, surface scum, or sheens, odor, color), and - Known or suspected source(s) of pooled or ponded water. • Station description (i.e. deposits or stains, vegetation condition, structural condition, observable biology). • Presence and assessment of trash in and around station. • Evidence or signs of illicit connections or illegal dumping.

- [2] For any stations monitoring sources not within the authority of the Copermittee to control where flows are observed during the first year of enrollment under this Order, the Copermittee must develop a field screening and monitoring schedule that can characterize the monthly non-storm water discharges and pollutant loads from the sources in or discharging to the Copermittee's MS4;
- [3] High priority non-storm water MS4 monitoring stations must be monitored in accordance with the following:
- A. Each Copermittee must designate at least 5 high priority non-storm water MS4 monitoring stations that are representative of non-storm water discharges from areas consisting primarily of residential, commercial, and industrial land uses present within and directly under the Copermittee's jurisdiction. Where there are less than 5 non-storm water MS4 monitoring stations within a Copermittee's jurisdiction, all stations must be designated as high priority, and
 - B. Each Copermittee must develop a monitoring schedule that can characterize the monthly non-storm water discharges and pollutant loads in or discharging from the high priority non-storm water MS4 monitoring stations;
- [4] At least 10 percent of the non-storm water MS4 monitoring stations not identified as high priority must be screened and monitored each month. In addition, each non-storm water MS4 monitoring station must be screened and monitored at least once per year. If non-storm water flows are observed at

any non-storm water MS4 monitoring stations not identified as high priority, then they must become high priority pursuant to Provision [D.1.a.\(1\)\(b\)](#).

[b] For each monitoring events required above, the narrative descriptions and observations in [Table D-1](#) must be recorded at each non-storm water MS4 monitoring station.

(ii) *Non-Storm Water Field Monitoring* [D.1.a.(1)(c)(ii)]

If flows, or pooled or ponded water are present during the field observations required under Provision [D.1.a.\(1\)\(c\)\(i\)](#), the Copermittee must monitor and record the parameters in [Table D-2](#):

Table D-2. Field Monitoring Parameters for Non-Storm Water MS4 Monitoring Stations

Parameters
<ul style="list-style-type: none">• pH• Temperature• Specific conductivity• Dissolved oxygen• Turbidity• Total chlorine• Total copper*• Total phenol• Detergents (or surfactants)*• Total hardness*• Reactive phosphorus*• Nitrate*• Ammonia as nitrogen*

* Field measurement not required if flow is observed and collection of a sample for analysis is required.

(iii) *Non-Storm Water Analytical Monitoring* [D.1.a.(1)(c)(iii)]

If flows are present during the field observations required under Provision [D.1.a.\(1\)\(c\)\(i\)](#), samples must be collected and analyzed as follows:

[a] If the Copermittee identifies and eliminates the source of non-storm water discharge, analysis of the sample is not required, but encouraged;

[b] During the first year of enrollment under this Order, samples must be collected if flows are observed at non-storm water MS4 monitoring stations. Samples must be analyzed for the following constituents, unless the Copermittee has historical data that can demonstrate or provide justification that the analysis of the constituent is not necessary:

[1] Any pollutants identified as the highest priority for the Watershed Management Area in the Water Quality Improvement Plan,

[2] Any pollutants or constituents that the Copermittee has identified as a potential concern to receiving waters requiring additional data collection,

[3] Constituents listed in [Table D-3](#);

Table D-3. Analytical Monitoring Constituents for Non-Storm Water MS4 Monitoring Stations

Conventional, Nutrients, Hydrocarbons	Pesticides	Metals (Total and Dissolved)	Indicator Bacteria
<ul style="list-style-type: none"> • Total Dissolved Solids • Total Suspended Solids • Total Phosphorus • Dissolved Phosphorus • Nitrite¹ • Nitrate¹ • Total Kjeldhal Nitrogen • Ammonia • Oil and Grease 	<ul style="list-style-type: none"> • Diazinon • Chlorpyrifos • Pyrethroids 	<ul style="list-style-type: none"> • Cadmium • Copper • Lead • Zinc 	<ul style="list-style-type: none"> • Total Coliform • Fecal Coliform² • <i>Enterococcus</i>

Notes:

1. Nitrite and nitrate may be combined and reported as nitrite+nitrate.
2. *E. Coli* may be substituted for Fecal Coliform.

- [c] **After** the first year of enrollment under this Order, samples must be collected from all high priority non-storm water MS4 monitoring stations for analysis at least two times per year. Samples must be collected at least once during the dry season (May-September) and at least once after the first storm event of the wet season (October-April). Samples must be analyzed for the following constituents:
- [1] Any pollutants identified as the highest priority for the Watershed Management Area in the Water Quality Improvement Plan,
 - [2] Any pollutants or constituents that the Copermittee has identified as a potential concern to receiving waters requiring additional data collection, and
 - [3] Constituents listed in [Table D-3](#) must be analyzed at least once per year;
- [d] Samples must be collected from all non-storm water MS4 monitoring stations not identified as high priority for analysis if flows are observed during required field screening and monitoring events. Samples must be analyzed for the following constituents, unless the Copermittee has historical data that can demonstrate or provide justification that the analysis of the constituent is not necessary:
- [1] Any pollutants identified as the highest priority for the Watershed Management Area in the Water Quality Improvement Plan,
 - [2] Any pollutants or constituents that the Copermittee has identified as a potential concern to receiving waters requiring additional data collection, and
 - [3] Constituents listed in [Table D-3](#).

(2) Dry Weather Ambient Receiving Water Monitoring Program [D.1.a.(2)]

Each Copermittee must develop and conduct a program to monitor and characterize the ambient conditions of the receiving waters utilized for conveying non-storm water within and through its jurisdiction. Any available monitoring data not collected specifically to meet these requirements may be utilized by the Copermittee. The dry weather ambient receiving water monitoring program must meet the following minimum requirements:

(a) Dry Weather Ambient Receiving Water Monitoring Stations [D.1.a.(2)(a)]

Each Copermittee must identify the dry weather ambient receiving water monitoring stations that will be screened and monitored. Any location in a receiving water that is already monitored by the Copermittee or another entity may also be utilized as a dry weather ambient receiving water monitoring station. The monitoring stations must be selected in accordance with the following criteria:

- (i) The following factors should be considered in determining the location of each dry weather ambient receiving water monitoring station:
 - [a] Permission to cross private property and public land,
 - [b] Safety of personnel and accessibility of the location,
 - [c] Location can complement or supplement historical ambient receiving water data,
 - [d] Location should not be in close proximity to any MS4 outfalls or other point source discharges to the receiving water,
 - [e] Natural or relatively unaltered areas in receiving waters are preferred, and
 - [f] Recommendations from the San Diego Water Board;
- (ii) Locate at least one monitoring station in the lowest part of the Watershed Management Area near the boundary of its jurisdiction;
- (iii) Locate at least one monitoring station located in the uppermost part of the Watershed Management Area near the boundary of its jurisdiction; and
- (iv) The monitoring stations identified in Provisions [D.1.a.\(2\)\(a\)\(ii\)](#) and [D.1.a.\(2\)\(a\)\(iii\)](#) must be hydraulically connected.

(b) Dry Weather Ambient Receiving Water Monitoring Procedures [D.1.a.(2)(b)]

Each Copermittee must monitor the dry weather ambient receiving water monitoring stations as follows:

- (i) *Dry Weather Ambient Receiving Water Field Observations*
[D.1.a.(2)(b)(i)]

Monitoring events for each monitoring station must be scheduled as follows:

- [a] During the first year of enrollment under this Order, the Copermittee must record field observations consistent with [Table D-4](#) at each dry weather ambient receiving water monitoring station at least one time per month; and

Table D-4. Field Observations for Dry Weather Ambient Receiving Water Monitoring Stations

Field Observations
<ul style="list-style-type: none">• Station identification and location.• Presence of flow, or pooled or ponded water.• If flow is present:<ul style="list-style-type: none">- Flow estimation (i.e. width of water surface, approximate depth of water, approximate flow velocity, flow rate),- Flow characteristics (i.e. presence of floatables, surface scum, or sheens, odor, color),• If pooled or ponded water is present:<ul style="list-style-type: none">- Characteristics of pooled or ponded water (i.e. presence of floatables, surface scum, or sheens, odor, color),.• Station description (i.e. deposits or stains, vegetation condition, structural condition, observable biology).• Presence and assessment of trash in and around station.

- [b] For any monitoring stations where flows are observed during the first year of enrollment under this Order, the Copermittee must develop a field screening and monitoring schedule that can characterize the monthly flows and pollutant loads in the receiving water.

- (ii) *Dry Weather Ambient Receiving Water Field Monitoring* [D.1.a.(2)(b)(ii)]

If flow, or pooled or ponded water is present during the field observations required under Provision [D.1.a.\(2\)\(b\)\(i\)](#), the Copermittee must monitor and record the parameters in [Table D-2](#).

- (iii) *Dry Weather Ambient Receiving Water Analytical Monitoring*
[D.1.a.(2)(b)(iii)]

If flows are present during the field observations required under Provision [D.1.a.\(2\)\(b\)\(i\)](#), samples of the ambient receiving water flows must be collected and analyzed as follows:

- [a] During the first year of enrollment under this Order, samples must be collected for each observation of flow in the ambient receiving water monitoring stations for analysis. Samples must be analyzed for the following constituents:

- [1] Any pollutants identified as the highest priority for the Watershed Management Area in the Water Quality Improvement Plan,

- [2] Any non-storm water pollutants or constituents that the Copermittee has identified as a potential concern to receiving waters requiring additional data collection, and
- [3] Constituents listed in [Table D-3](#); and
- [b] **After** the first year of enrollment under this Order, samples of flows observed at ambient receiving water monitoring stations must be collected for analysis at least two times during the remaining term of this Order. Samples must be collected at least once during the dry season (May-September) and at least once after the first storm event of the wet season (October-April). Samples must be analyzed for the following constituents:
 - [1] Any pollutants identified as the highest priority for the Watershed Management Area in the Water Quality Improvement Plan,
 - [2] Any pollutants or constituents that the Copermittee has identified as a potential concern to receiving waters requiring additional data collection,
 - [3] Constituents listed in [Table D-3](#) must be analyzed at least once per year.

e.b. WET WEATHER JURISDICTIONAL MONITORING [D.1.b]

For wet weather days,¹¹ each Copermittee must implement the following minimum monitoring requirements within its jurisdiction:

(1) Storm Water MS4 Outfall Monitoring Program [D.1.b.(1)]

Each Copermittee must develop and conduct a program to monitor and characterize the storm water flows and pollutant loads from the MS4 outfalls within its jurisdiction during wet weather days. Any available monitoring data not collected specifically to meet these requirements may be utilized by the Copermittee. The monitoring program must meet the following minimum requirements:

(a) Storm Water MS4 Outfall Monitoring Stations [D.1.b.(1)(a)]

Each Copermittee must identify the wet weather MS4 outfall monitoring stations within its jurisdiction that will be monitored and sampled during wet weather days. Any non-storm water MS4 monitoring station identified under Provision [D.1.a.\(1\)\(a\)](#) may also be utilized as a storm water MS4 outfall monitoring station. Monitoring stations must be selected in accordance with the following guidelines and criteria:

- (i) The following factors should be considered in determining the location of each wet weather MS4 outfall monitoring station:

¹¹ Wet weather day defined as any day with 0.1 inches of rain or greater and the following 3 days.

- [a] Safety of personnel and accessibility of the location,
 - [b] Total area draining to the location,
 - [c] Population density of the area draining to the location,
 - [d] Traffic density,
 - [e] Age of the structures or buildings in the area,
 - [f] History of the area,
 - [g] Land use types draining to the location,
 - [h] Hydrological conditions, and
 - [i] Recommendations from the San Diego Water Board.
- (ii) Each wet weather MS4 outfall monitoring station must consist of one of the following:
- [a] A major outfall, or
 - [b] Other outfall point, or
 - [c] Other point of access (e.g., manhole), only as an alternate location if safety during wet weather discharge sampling at available outfall locations discharging to receiving waters is a significant concern and limits accessibility;
- (iii) Each Copermittee must designate at least 5 monitoring stations that are representative of storm water flows from areas consisting primarily of residential, commercial, and industrial land uses present within the Copermittee's jurisdiction. Where there are less than 5 MS4 outfalls within a Copermittee's jurisdiction, all MS4 outfalls must be designated as wet weather MS4 outfall monitoring stations.
- (iv) Any monitoring station that does not have any SAL exceedances for 3 successive years may be replaced with a different monitoring station.

(b) Storm Water MS4 Outfall Monitoring Procedures [D.1.b.(1)(b)]

Each Copermittee must develop monitoring procedures to be consistent with the following criteria:

- (i) A narrative description must be provided of the station identification and location, date and duration of the storm event(s) sampled, rainfall estimates of the storm event which generated the sampled discharge and the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event;
- (ii) Flow rates and volumes for each monitoring station must be measured or estimated during each monitoring event in accordance with the [USEPA Storm Water Sampling Guidance Document](#) (EPA-833-B-92-001), sections 3.2.1 or 3.2.2, or other method proposed by the Copermittees that is acceptable to the San Diego Water Board;

- |
- (iii) Each Copermittee must develop and implement a monitoring frequency during the wet season to characterize pollutant discharges from the MS4 outfalls within its jurisdiction. At a minimum, storm water samples must be collected from two storm events occurring at least one month apart for each monitoring station. Samples must be collected as follows:
 - [a] Grab samples may be collected only for pH, temperature, specific conductivity, dissolved oxygen, hardness, oil and grease, and indicator bacteria,
 - [b] For all other constituents, one of the following methods must be used to collect the samples:
 - [1] A 24-hour composite sample, using a minimum of 4 grab samples, collected during the first 24 hours of the storm water discharge, or for the entire storm water discharge if the storm event is less than 24 hours. Results of the analyses of individual grab samples may be averaged to obtain the daily average,
 - [2] A flow-weighted composite sample for either the entire discharge or for the first 3 hours of the discharge. The flow-weighted composite sample for the storm water discharge may be taken with a continuous sampler or as a combination of a minimum of three sample aliquots taken in each hour of discharge for the entire discharge or for the first three hours of the discharge, with each aliquot being separated by a minimum period of fifteen minutes. Only one analysis of the composite of aliquots is required, or
 - [3] A minimum of one grab sample may be collected for storm water discharges from holding ponds or other impoundments with a retention period greater than 24 hours;
 - (iv) Storm water MS4 outfall monitoring stations must be monitored and sampled during the first wet weather event of the wet season. Samples must be analyzed for the following constituents:
 - [a] Any pollutants contributing to the highest water quality priorities for the Watershed Management Area as identified in the Water Quality Improvement Plan,
 - [b] Any non-storm water pollutants or constituents that the Copermittee has identified as a potential concern to receiving waters requiring additional data collection, and
 - [c] Constituents listed in [Table D-5](#).

Table D-5. Analytical Monitoring Constituents for Wet Weather MS4 Outfall Monitoring Stations

Conventional, Nutrients, Hydrocarbons	Pesticides	Metals (Total and Dissolved)	Indicator Bacteria
<ul style="list-style-type: none"> • Total Dissolved Solids • Total Suspended Solids • Turbidity¹ • Total Hardness • pH • Specific Conductivity • Temperature • Dissolved Oxygen • Biological Oxygen Demand, 5-day • Chemical Oxygen Demand • Total Organic Carbon • Dissolved Organic Carbon • Sulfate • Methylene Blue Active Substances (MBAS) • Total Phosphorus¹ • Dissolved Phosphorus • Nitrite^{1,2} • Nitrate^{1,2} • Total Kjeldhal Nitrogen • Ammonia • Oil and Grease 	<ul style="list-style-type: none"> • Diazinon • Chlorpyrifos • Pyrethroids 	<ul style="list-style-type: none"> • Arsenic • Cadmium¹ • Chromium • Copper¹ • Iron • Lead¹ • Manganese • Mercury • Nickel • Selenium • Silver • Thallium • Zinc¹ 	<ul style="list-style-type: none"> • Total Coliform • Fecal Coliform³ • <i>Enterococcus</i>

Notes:

1. Constituent with a storm water action level (SAL) specified under Provision C.2.
2. Nitrite and nitrate may be combined and reported as nitrite+nitrate.
3. *E. Coli* may be substituted for Fecal Coliform.

(v) Samples collected after the first wet weather monitoring event and during the remaining period of the wet season must be analyzed for the following constituents:

- [a] Any pollutants contributing to the highest water quality priorities for the Watershed Management Area as identified in the Water Quality Improvement Plan.
- [b] Any pollutants or constituents that the Copermittee has identified as a potential concern to receiving waters requiring additional data collection.

(2) Storm Water Pollutant Source Identification Monitoring Program [D.1.b.(2)]

Each Copermittee must develop and conduct a program within its jurisdiction to identify the sources of pollutants in storm water discharged from the Copermittee's MS4 during wet weather conditions. Any available monitoring data not collected specifically to meet these requirements may be utilized by the Copermittee. The storm water pollutant source identification monitoring

program must include focused monitoring which moves upstream into each MS4 outfall drainage area as necessary to identify sources of the highest water quality priorities in the receiving waters. The wet weather source identification monitoring program must begin no later than the wet season following the date the San Diego Water Board determines that the Water Quality Improvement Plan meets the requirements of this Order.

2. Watershed Monitoring Requirements

a. WATERSHED MONITORING STATIONS [D.2.a]

The Copermittees must identify watershed monitoring stations within the Watershed Management Area. The watershed monitoring stations must be selected in accordance with the following criteria:

- (1) All mass loading stations (MLSs) previously established by the Copermittees in each Watershed Management Area must continue to be utilized as watershed monitoring stations;
- (2) All temporary watershed assessment stations (TWASs), bioassessment stations, and stream assessment stations previously established by the Copermittees must be considered for continued use as watershed monitoring stations;
- (3) Any dry weather ambient receiving water monitoring station identified pursuant to Provision [D.1.a.\(2\)\(a\)](#) may be considered for use as a watershed monitoring station;
- (4) At least one reference watershed monitoring station must be selected for each Watershed Management Area; and
- (5) At least one watershed monitoring station located between and hydrologically connected to each MLS and each reference station must be selected for each Watershed Management Area.

b. DRY WEATHER WATERSHED MONITORING [D.2.b]

The Copermittees must develop and conduct a program to monitor the condition of the receiving waters in each Watershed Management Area during dry weather conditions. Any available monitoring data not collected specifically to meet these requirements may be utilized by the Copermittees. For dry weather days, the Copermittees must develop and/or update its written dry weather watershed monitoring procedures to be consistent with the following criteria:

(1) Dry Weather Watershed Field Observations [D.2.b.(1)]

For each dry weather watershed monitoring event, the Copermittee must record field observations consistent with [Table D-4](#) at each monitoring station. Dry weather watershed monitoring is required at least every two years for each monitoring station. At least two dry weather watershed monitoring events must be scheduled for each watershed monitoring station per monitoring year. One monitoring event is required during the dry season (May-September) and one monitoring event is required on a dry weather day during the wet season (October-April), after the first storm event.

(2) Dry Weather Watershed Field Monitoring [D.2.b.(2)]

If flow, or pooled or ponded water is present during the dry weather watershed monitoring event required pursuant to Provision [D.2.b.\(1\)](#), and conditions allow the collection of the data, the Copermittee must monitor and record the parameters in [Table D-2](#).

(3) Dry Weather Watershed Analytical Monitoring [D.2.b.(3)]

Samples from each monitoring station must be collected for analysis at least every two years. At least two dry weather watershed analytical monitoring events must be scheduled for each watershed monitoring station per monitoring year. Samples must be collected once during the dry season (May-September) and once on a dry weather day during the wet season (October-April), after the first storm event. Analytical monitoring samples must be collected and analyzed as follows:

- (a) Grab samples may be collected only for pH, temperature, specific conductivity, dissolved oxygen, hardness, oil and grease, and indicator bacteria;
- (b) For all other constituents, time-weighted composites composed of 24 discrete hourly samples must be collected; and
- (c) Analysis for the following constituents is required:
 - (i) Any other pollutants contributing to the highest water quality priorities for the Watershed Management Area as identified in the Water Quality Improvement Plan,
 - (ii) Any pollutants that the Copermittee has identified as a potential concern to receiving waters requiring additional data collection, and
 - (iii) Constituents listed in [Table D-5](#).

(4) Dry Weather Watershed Toxicity Monitoring [D.2.b.(4)]

Samples from each monitoring station must be collected for toxicity testing at least every two years. At least two dry weather watershed toxicity monitoring events must be scheduled for each watershed monitoring station per monitoring year. Samples must be collected once during the dry season (May-September) and once on a dry weather day during the wet season (October-April), after the first storm event. Toxicity testing must be conducted in accordance with the following table:

Table D-6. Toxicity Testing for Dry Weather Watershed Monitoring Station Flows

Dry Weather Watershed Monitoring Station	Freshwater Organisms	Estuarine and Marine Organisms
Mass Loading Stations ¹	3 acute ² 3 chronic ²	1 chronic ³
Others Stations	3 acute ² 3 chronic ²	None

Notes:

1. Dry weather toxicity testing at a mass loading station may be omitted if the channel flows are diverted year-round during dry weather conditions to the sanitary sewer for treatment.
2. The presence of acute toxicity must be determined in accordance with USEPA protocol EPA-821-R-02-012. The presence of chronic toxicity must be determined in accordance with USEPA protocol EPA-821-R-02-013. Toxicity testing must include the use of *Pimephales promelas* (fathead minnow), *Hyalella azteca*, and *Psuedokirchneriella subcapitata* (formerly *Selenastrum capricornutum*, unicellular algae).
3. The presence of chronic marine toxicity must be determined in accordance with USEPA guidance EPA 600/R95/136, except for chronic mysid tests which must be conducted in accordance with USEPA protocol EPA-821-R-02-014. *Americamysis bahia* may be used as a marine test organism if *Holmesimysis costata* cannot be reasonably obtained. The use of, and justification for, *A. bahia* must be clearly reported in the Annual Report.

(5) Dry Weather Watershed Bioassessment Monitoring [D.2.b.(5)]

Bioassessment monitoring for each monitoring station is required at least every two years. Bioassessment monitoring is required to be conducted in May or June for each watershed monitoring station, and must be conducted as follows:

- (a) The following bioassessment samples and measurements must be collected:
 - (i) Macroinvertebrate samples must be collected in accordance with the "Reachwide Benthos (Multihabitat) Procedure" in the most current Surface Water Ambient Monitoring Program (SWAMP) Bioassessment Standard Operating Procedures (SOP), and amendments, as applicable;¹²

¹² Ode, P.R.. 2007. Standard operating procedures for collecting macroinvertebrate samples and associated physical and chemical data for ambient bioassessments in California. California State Water Resources Control Board Surface Water Ambient Monitoring Program (SWAMP) Bioassessment SOP 001. http://www.swrcb.ca.gov/water_issues/programs/swamp/tools.shtml#monitoring

- (ii) The “Full” suite of physical habitat characterization measurements must be collected in accordance with the most current SWAMP Bioassessment SOP, and as summarized in the SWAMP Stream Habitat Characterization Form – Full Version;¹³ and
 - (iii) Freshwater algae samples must be collected in accordance with the SWAMP Standard Operating Procedures for Collecting Algae Samples.¹⁴ Analysis of samples must include algal taxonomic composition (diatoms and soft algae) and algal biomass.
- (b) The bioassessment samples, measurements, and appropriate water chemistry data must be used to calculate the following:
- (i) An Index of Biotic Integrity (IBI) for macroinvertebrates for each monitoring station where bioassessment monitoring was conducted, based on the most current calculation method;¹⁵ and
 - (ii) An IBI for algae for each monitoring station where bioassessment monitoring was conducted, when a calculation method is developed.¹⁶

(6) Dry Weather Watershed Hydromodification Monitoring [D.2.b.(6)]

In addition to the hydromodification monitoring conducted as part of the Copermittees’ Hydromodification Management Plans, for any year dry weather watershed monitoring is required, hydromodification monitoring is required to be conducted at least once during the dry weather season (May-September) for each monitoring station. The following hydromodification monitoring observations and measurements must be collected within an appropriate domain of analysis for the monitoring station:

- (a) Channel conditions, including:
- (i) Channel dimensions,
 - (ii) Hydrologic and geomorphic conditions, and
 - (iii) Presence and condition of vegetation and habitat;

¹³ Available at:

http://www.waterboards.ca.gov/water_issues/programs/swamp/docs/reports/fieldforms_fullversion052908.pdf

¹⁴ Fetscher et al. 2009. Standard Operating Procedures for Collecting Stream Algae Samples and Associated Physical Habitat and Chemical Data for Ambient Bioassessments in California.

¹⁵ The most current calculation method at the time the Order was adopted is outlined in “A Quantitative Tool for Assessing the Integrity of Southern California Coastal Streams” (Ode, et al. 2005. Environmental Management. Vol. 35, No. 1, pp. 1-13). If an updated or new calculation method is developed, either both (i.e. current and updated/new) methods must be used, or historical IBIs must be recalculated with the updated or new calculation method.

¹⁶ When a calculation method is developed, IBIs must be calculated for all available and appropriate historical data.

(b) Location of discharge points;

(c) Habitat integrity;

(d) Photo documentation of existing erosion and habitat impacts, with location (i.e. latitude and longitude coordinates) where photos were taken;

(e) Measurement or estimate of dimensions of any existing channel bed or bank eroded areas, including length, width, and depth of any incisions; and

(f) Known or suspected cause(s) of existing downstream erosion or habitat impact, including flow, soil, slope, and vegetation conditions, as well as upstream land uses and contributing new and existing development.

(7) Dry Weather Watershed Sediment Quality Monitoring [D.2.b.(7)]

Sediment monitoring must be performed by the Copermittees to assess compliance with sediment quality receiving water limits applicable to MS4 discharges to enclosed bays and estuaries. The monitoring may be performed either by individual or multiple Copermittees to assess compliance with receiving water limits, or through participation in a water body monitoring coalition. The Copermittees must identify sediment sampling stations that are spatially representative of the sediment within the water body segment or region of interest. Sediment quality monitoring must be conducted at least once every two years between June and September. Sediment quality monitoring must be conducted in conformance with the monitoring requirements set forth in the State Water Board Sediment Quality Control Plan.

c. WET WEATHER WATERSHED MONITORING [D.2.c]

The Copermittees in each Watershed Management Area must develop and conduct a program to monitor the condition in receiving waters and characterize storm water flows during wet weather days of the wet season. Any available monitoring data not collected specifically for this Order that meet the monitoring requirements may be utilized by the Copermittee. For wet weather days, the Copermittees must develop and/or update its written wet weather watershed monitoring procedures to be consistent with the following criteria:

(1) Wet Weather Watershed Field Observations [D.2.c.(1)]

Wet weather watershed monitoring events are required at least once every two years for each dry weather watershed monitoring station. Each monitoring station must be monitored during at least two wet weather events

in any period (July 1 to June 30) that monitoring is required, including the first wet weather event of the wet season beginning October 1 and ending April 30, and at least one wet weather event after February 1. For each wet weather watershed monitoring event, the following narrative descriptions and observations must be recorded at each monitoring station:

- (a) A narrative description of the station that includes the location, date and duration of the storm event(s) sampled, rainfall estimates of the storm event, and the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event;
- (b) The flow rates and volumes measured or estimated. Data from nearby USGS gauging stations may be utilized, or flow rates may be measured or estimated in accordance with the [USEPA Storm Water Sampling Guidance Document](#) (EPA-833-B-92-001), section 3.2.1, or other method proposed by the Copermittees that is acceptable to the San Diego Water Board;
- (c) Station condition (i.e. deposits or stains, vegetation condition, structural condition, observable biology); and
- (d) Presence and assessment of trash in and around station.

(2) Wet Weather Watershed Field Monitoring [D.2.c.(2)]

For each wet weather watershed monitoring event, the parameters in [Table D-2](#) must be monitored and recorded.

(3) Wet Weather Watershed Analytical Monitoring [D.2.c.(3)]

Samples from each wet weather watershed monitoring station must be collected for analysis at least two times during the term of this Order, at least once for the first wet weather event of the wet season, and at least once for a wet weather event after February 1. Wet weather samples must be collected and analyzed as follows:

- (a) Grab samples may be collected only for pH, temperature, specific conductivity, dissolved oxygen, hardness, oil and grease, and indicator bacteria;
- (b) For all other constituents, one of the following methods must be used to collect the samples:
 - (i) A 24-hour composite sample, using a minimum of 4 grab samples, collected during the first 24 hours of the storm water discharge, or for the entire storm water discharge if the storm event is less than 24 hours. Results of the analyses of individual grab samples may be averaged to obtain the daily average, or

- (ii) A flow-weighted composite sample for either the entire discharge or for the first 3 hours of the discharge. The flow-weighted composite sample for the storm water discharge may be taken with a continuous sampler or as a combination of a minimum of three sample aliquots taken in each hour of discharge for the entire discharge or for the first three hours of the discharge, with each aliquot being separated by a minimum period of fifteen minutes. Only one analysis of the composite of aliquots is required; and

(c) Analysis for the following constituents is required:

- (i) Any other pollutants contributing to the highest water quality priorities for the Watershed Management Area as identified in the Water Quality Improvement Plan,
- (ii) Any water pollutants or constituents that the Copermittee has identified as a potential concern to receiving waters requiring additional data collection, and
- (iii) Constituents listed in [Table D-5](#).

(4) Wet Weather Watershed Toxicity Monitoring [D.2.c.(4)]

Samples from each wet weather watershed monitoring station must be collected for toxicity testing at least two times during the term of this Order, at least once for the first wet weather event of the wet season, and at least once for a wet weather event after February 1. Toxicity testing must be conducted in accordance with the following table:

Table D-7. Toxicity Testing for Wet Weather Watershed Monitoring Station Flows

Wet Weather Watershed Monitoring Station	Freshwater Organisms	Estuarine and Marine Organisms
Mass Loading Stations	3 acute ¹	1 acute ² 2 chronic ²
Others Stations	None	None

Notes:

1. The presence of acute toxicity must be determined in accordance with USEPA protocol EPA-821-R-02-012. Toxicity testing must include the use of *Pimephales promelas* (fathead minnow), *Hyalella azteca*, and *Psuedokirchneriella subcapitata* (formerly *Selenastrum capricornutum*, unicellular algae).
2. The presence of acute toxicity must be determined in accordance with USEPA protocol EPA-821-R-02-012. The presence of chronic marine toxicity must be determined in accordance with USEPA guidance EPA 600/R95/136, except for chronic mysid tests which must be conducted in accordance with USEPA protocol EPA-821-R-02-014. *Americamysis bahia* may be used as a marine test organism if *Holmesimysis costata* cannot be reasonably obtained. The use of, and justification for, *A. bahia* must be clearly reported in the Annual Report.

d. ALTERNATIVE WATERSHED MONITORING REQUIREMENTS [D.2.d]

In lieu of implementing the watershed monitoring requirements under Provisions [D.2.a-c](#), the San Diego Water Board may direct the Copermitees to participate with other regulated entities, other interested parties, and the San Diego Water Board in the development, refinement, implementation, and coordination of regional monitoring and assessment programs to determine the status and trends of water quality conditions in 1) coastal waters, 2) enclosed bays, harbors, estuaries, and lagoons, and 3) streams.

e. WATERSHED MANAGEMENT AREA SPECIAL STUDIES [D.2.e]

- (1) Within the term of this Order, the Copermitees must implement at least three special studies in each Watershed Management Area. The Copermitees are to determine which special studies will be developed and implemented in the Watershed Management Area. The monitoring plans for the Watershed Management Area special studies must be submitted with the Water Quality Improvement Plan required pursuant to Provision [F.1](#). The Watershed Management Area special studies must, at a minimum, be in conformance with the following criteria:
 - (a) The special studies must be related to the highest water quality priorities identified by the Copermitees within the Watershed Management Area;
 - (b) The special studies must be implemented within the Watershed Management Area;
 - (c) The special studies must require some form of participation by all Copermitees within the Watershed Management Area; and
 - (d) One of the three required special studies may be implemented as part of a regional special study required pursuant to Provision [D.3](#).
- (2) The Copermitees must report the progress and findings of the Watershed Management Area Special Studies as part of the Annual Report for each Watershed Management Area, as required pursuant to Provision [F.3.b](#).

3. Regional Special Studies

Within the term of this Order, the Copermitees must develop and implement at least two regional special studies for the San Diego Region. The Copermitees must determine which regional special studies will be developed and implemented. The regional special studies must be identified in the Water Quality Improvement Plans required pursuant to Provision [F.1](#). The regional special studies must, at a minimum, be in conformance with the following criteria:

- a. The special studies must be related to a water quality priority issue or potential water quality concern identified by the Copermittees for the entire San Diego Region;
- b. The special studies must be implemented within the San Diego Region; and
- c. The special studies must require some form of participation by all Copermittees enrolled under this Order.

4. Assessment Requirements

Each Copermittee must evaluate the data collected pursuant to Provisions [D.1](#), [D.2](#) and [D.3](#) to identify causes of exceedances of action levels developed pursuant to Provision [C](#), assess the quality of the discharges into and from the MS4s, and assess the quality of receiving waters. Each Copermittee must also assess the progress of the water quality improvement strategies required pursuant to Provision [B.3](#) in restoring and protecting beneficial uses of receiving waters. Assessments must be performed as described in the following provisions:

a. MS4 DISCHARGES ASSESSMENTS [D.4.a]

(1) Jurisdictional Non-Storm Water Discharges Reduction Assessment [D.4.a.(1)]

(a) Non-Storm Water Action Levels [D.4.a.(1)(a)]

Each Copermittee must analyze the jurisdictional non-storm water monitoring data collected pursuant to Provision [D.1.a](#) and identify causes of NAL exceedances. The analysis must include, but not be limited to, all of the following considerations:

- (i) For non-storm water discharges from the Copermittee's MS4 outfalls to receiving waters within the Copermittee's jurisdiction causing exceedances of NALs, the Copermittee must analyze its municipal, commercial, industrial, and residential inventories and activities, and other land use data, and identify sources or potential sources that may have caused or contributed to the NAL exceedances;
- (ii) Each Copermittee must provide non-storm water monitoring and analytical data to demonstrate that NAL exceedances were caused by pollutants which are not anthropogenic in origin; and
- (iii) Each Copermittee must provide non-storm water monitoring and analytical data to demonstrate that NAL exceedances were caused by pollutants which originate from sources or potential sources not within the authority of the Copermittee to control (e.g. Phase II dischargers or Caltrans).

(b) Calculate Jurisdictional Non-Storm Water Discharges and Pollutant Loads [D.4.a.(1)(b)]

Each Copermittee must analyze the jurisdictional non-storm water monitoring data collected pursuant to Provision [D.1.a](#) to calculate non-storm water discharges and pollutant loads from the MS4s and receiving waters in each jurisdiction. These calculations must be updated annually in the Annual Report required per Provision [F.3.b](#). Each Copermittee must calculate:

- (i) Monthly non-storm water discharges and pollutant loads from each known or potential source not within the authority of the Copermittee to control to an MS4 or receiving waters within the Copermittee's jurisdiction;
- (ii) Monthly non-storm water discharges and pollutant loads from the Copermittee's MS4 outfalls to receiving waters within the Copermittee's jurisdiction, with an estimate of the percent contribution from each land use type within the drainage basin for each MS4 outfall;
- (iii) Monthly non-storm water flows and pollutant loads in receiving waters at the downstream boundary of the Copermittee's jurisdiction; and
- (iv) Monthly non-storm water flows and pollutant loads in receiving waters from areas or facilities subject to the Copermittee's legal authority that are discharged from the Copermittee's MS4 to downstream receiving waters.

(c) Review Progress and Evaluate Jurisdictional Actions [D.4.a.(1)(c)]

Each Copermittee must review the NAL exceedances, discharge and flow analyses, and pollutant load analyses required pursuant to Provisions [D.4.a.\(1\)\(a\)](#) and [D.4.a.\(1\)\(b\)](#) on an annual basis to:

- (i) Identify reductions and progress in achieving reductions in non-storm water and illicit discharges and connections from different land uses and/or drainage areas to its MS4;
- (ii) Assess the effectiveness of current actions being implemented by the Copermittee toward the reduction or elimination of non-storm water discharges from the MS4 within its jurisdiction; and
- (iii) Identify modifications necessary to increase the effectiveness of the jurisdictional runoff management program toward reducing or eliminating non-storm water discharges to and from the MS4 within its jurisdiction.

(2) Watershed Management Area Non-Storm Water Assessment [D.4.a.(2)]

(a) Calculate Watershed Non-Storm Water Flows and Pollutant Loads [D.4.a.(2)(a)]

The Copermittees must analyze the jurisdictional non-storm water and watershed monitoring data collected per Provisions [D.1.a](#) and [D.2.b](#) to calculate non-storm water flows and pollutant loads in receiving waters for each Watershed Management Area. These calculations must be updated annually in the Annual Report required per Provision [F.3.b](#). The Copermittees must develop or utilize appropriate methods or models to calculate:

- (i) Monthly non-storm water runoff flows and pollutant loads at each watershed monitoring station from different land uses and drainage basins;
- (ii) Monthly non-storm water flows and pollutant loads at each watershed monitoring station from all the Copermittees' MS4 outfalls to receiving waters, with an estimate of the percent contribution from different land uses; and
- (iii) Monthly non-storm water flows and pollutant loads at each watershed monitoring station, with an estimate of the percent contribution from both areas or facilities subject to the Copermittees' legal authority and areas or facilities not subject to the Copermittees' legal authority.

(b) Evaluate Water Quality Improvement Strategies [D.4.a.(2)(b)]

The Copermittees in each Watershed Management Area must review the non-storm water flow and pollutant load analyses required pursuant to Provision [D.4.a.\(2\)\(a\)](#) on an annual basis to:

- (i) Assess the effectiveness of the water quality improvement strategies being implemented within the Watershed Management Area toward reducing or eliminating non-storm water discharges and pollutant loads from entering and discharging from the MS4 to receiving waters; and
- (ii) Identify modifications necessary to increase the effectiveness of the water quality improvement strategies toward reducing or eliminating non-storm water discharges and pollutant loads from entering and discharging from the MS4 to receiving waters.

(3) Jurisdictional Storm Water Pollutant Discharges Reduction Assessment
[D.4.a.(3)]

(a) Storm Water Action Levels [D.4.a.(3)(a)]

- (i) For storm water discharges from the Copermittee's storm water MS4 outfall monitoring stations with analytical monitoring data indicating exceedances of SALs, the Copermittee must analyze its municipal, commercial, industrial, and residential inventories and activities, and other land use data and identify sources or potential sources that may have caused or contributed to the SAL exceedances;
- (ii) Each Copermittee must provide storm water monitoring and analytical data to demonstrate that SAL exceedances were caused by the constituents in storm water discharges from the MS4 which are not anthropogenic in origin; and
- (iii) Each Copermittee must provide storm water monitoring and analytical data to demonstrate that SAL exceedances were caused by the constituents in storm water discharges from the MS4 which originate from sources or potential sources not within the authority of the Copermittee to control.

(b) Calculate Jurisdictional Storm Water Discharges and Pollutant Loads
[D.4.a.(3)(b)]

Each Copermittee must analyze the jurisdictional storm water monitoring data collected pursuant to Provision [D.1.b](#) to calculate storm water discharges and pollutant loads from the MS4s in each jurisdiction. These calculations must be updated annually in the Annual Report required per Provision [F.3.b](#). Each Copermittee must calculate or estimate:

- (i) The monthly mean rainfall estimates (or summary of weather bureau data) and the monthly average number of storm events;
- (ii) The average storm water runoff coefficient for each land use type within the Copermittee's jurisdiction;
- (iii) The volume of storm water discharged from each of the Copermittee's MS4 outfalls to receiving waters within its jurisdiction for each storm event;
- (iv) The pollutant loads from each of the Copermittee's MS4 outfalls to receiving waters within its jurisdiction for each storm event; and
- (v) The percent contribution of pollutant loads from each land use type within the drainage basin to storm water discharges for each MS4 outfall within its jurisdiction, for each storm event.

(c) Review Progress and Evaluate Jurisdictional Actions [D.4.a.(3)(c)]

Each Copermittee must review the SAL exceedances, discharge analyses, and pollutant load analyses required pursuant to Provisions [D.4.a.\(3\)\(a\)](#) and [D.4.a.\(3\)\(b\)](#) on an annual basis to:

- (i) Identify reductions and progress in achieving reductions in pollutant concentrations and/or pollutant loads from different land uses and/or drainage areas discharging from its MS4;
- (ii) Assess the effectiveness of current actions being implemented by the Copermittee toward the reduction of pollutants in storm water discharges from the MS4 within its jurisdiction to the MEP; and
- (iii) Identify modifications necessary to increase the effectiveness of the jurisdictional runoff management program toward reducing pollutants in storm water discharges from the MS4 within its jurisdiction to the MEP.

(4) Watershed Management Area Storm Water Assessment [D.4.a.(4)]

(a) Calculate Watershed Storm Water Flows and Pollutant Loads [D.4.a.(4)(a)]

The Copermittees must analyze the jurisdictional storm water and watershed monitoring data collected per Provisions [D.1.b](#) and [D.2.c](#) to calculate storm water flows and pollutant loads in receiving waters for each Watershed Management Area. These calculations must be updated annually in the Annual Report required per Provision [F.3.b](#). The Copermittees must develop or utilize appropriate methods or models to calculate:

- (i) Storm water runoff flows and pollutant loads at each watershed monitoring station from different land uses and drainage basins;
- (ii) Storm water flows and pollutant loads at each watershed monitoring station from all the Copermittees' MS4 outfalls, with an estimate of the percent contribution from different land uses; and
- (iii) Storm water pollutant loads in receiving waters at each watershed monitoring station, with an estimate of the percent contribution from both areas or facilities subject to the Copermittees' legal authority and areas or facilities not within the authority of the Copermittees to control.

(b) Evaluate Water Quality Improvement Strategies [D.4.a.(4)(b)]

The Copermittees in each Watershed Management Area must review the storm water flow and pollutant load analyses required pursuant to Provision [D.4.a.\(4\)\(a\)](#) on an annual basis to:

- (i) Assess the effectiveness of the water quality improvement strategies being implemented in each Watershed Management Area toward reducing pollutants in storm water discharges from the MS4s to the MEP; and
- (ii) Identify modifications necessary to increase the effectiveness of the water quality improvement strategies toward reducing pollutants in storm water discharges from the MS4s to the MEP.

b. RECEIVING WATERS ASSESSMENTS [D.4.b]

The Copermittees must annually perform assessments of receiving waters based on data collected pursuant to Provision [D.2](#) and any appropriate receiving water monitoring data available from other sources. The receiving waters assessments must analyze the status and trends of water quality conditions in 1) coastal waters, 2) enclosed bays, harbors, estuaries, and lagoons, and 3) streams under dry weather and wet weather conditions. For each of the three types of receiving waters, the Copermittees in each Watershed Management Area must:

- (1) Identify the most critical beneficial uses that must be protected or restored to ensure overall health of the receiving water;
- (2) Determine whether or not those critical beneficial uses are being protected or must be restored; and
- (3) Identify short-term and/or long-term improvements or degradation of those critical beneficial uses.

c. WATER QUALITY IMPROVEMENT ASSESSMENTS [D.4.c]

The Copermittees in each Watershed Management Area must review the numeric [targetsgoals](#) in the Water Quality Improvement Plan, the data collected pursuant to Provisions [D.1](#) and [D.2](#), and the findings from the assessments required pursuant to Provisions [D.4.a](#) and [D.4.b](#) to assess the following:

- (1) Beneficial uses of the receiving waters that are protected or must be restored;
- (2) Appropriateness of final dry weather and wet weather numeric [targetsgoals](#) for the highest water quality priorities that will restore the impacted beneficial uses in the receiving waters;
- (3) Non-storm water and storm water pollutant load reductions, or other improvements to receiving water or water quality conditions, that are necessary to attain the final numeric [targetsgoals](#) for restoring impacted beneficial uses in the receiving waters;

- |
- (4) Non-storm water and storm water pollutant load reductions necessary for the Copermittees to demonstrate that non-storm water and storm water discharges from their MS4s are not causing or contributing to exceedances of water quality objectives or impacts to beneficial uses in receiving waters;
 - (5) Non-storm water and storm water pollutant loads from their MS4s and/or receiving water flows that may be attributed to sources or potential sources not within the authority of the Copermittee to control and other non-anthropogenic sources identified by the Copermittees;
 - (6) Progress of the water quality improvement strategies toward attaining non-storm water and storm water pollutant load reductions or improvements to water quality conditions; and
- |
- (7) Progress toward achieving the interim and final numeric ~~targets~~goals for restoring impacted beneficial uses in the receiving waters.

5. Monitoring Provisions

Each Copermittee must comply with all the monitoring, reporting, and recordkeeping provisions of the Standard Permit Provisions and General Provisions contained in [Attachment B](#) to this Order.

E. JURISDICTIONAL RUNOFF MANAGEMENT PROGRAMS

The purpose of this provision is for each Copermittee to implement a program to control the ~~contribution-discharge~~ of pollutants ~~into and the discharges~~ and from their ~~respective MS4s to receiving waters~~ with ~~in~~ its jurisdiction ~~and to focus and prioritize those implementation actions based on the highest water quality priorities identified within the associated Water Quality Improvement Plan.~~

The ~~goals~~ of this ~~program~~ are: ~~1) to effectively prohibit non-stormwater discharges into the MS4s, 2) to reduce pollutants in stormwater discharges from the MS4s to the MEP, and 3) to address impacts of provision is to reduce the discharge of pollutants from in storm water to the MEP and effectively prohibit non-storm water discharges into the MS4 discharges provide the reasonable protection, preservation, enhancement, and restoration of water quality and designated beneficial uses of waters of the states that such discharges do not impair water quality and designated beneficial uses of waters of the state.~~ These ~~goals~~ will be accomplished through compliance with the jurisdictional runoff management program requirements ~~of this Provision, and as modified or supplemented per Provision B (Water Quality Improvement Plans).~~

Each Copermittee must implement ~~all~~ the requirements of Provision E no later than ~~182~~ months after the adoption of this Order, or in accordance with Provision F.5.a. Each Copermittee must update its jurisdictional runoff management program document, in accordance with Provision F.2.a, to include ~~all~~ the requirements of Provision E. The jurisdictional runoff management programs implemented by each Copermittee must be consistent with the Water Quality Improvement Plan for the applicable Watershed Management Area required by Provision B. ~~As such, the requirements of the jurisdictional runoff management programs as outlined below may be modified and prioritized as appropriate for consistency with the highest water quality priorities identified in the Water Quality Improvement Plan for the applicable Watershed Management Area if appropriate justification is provided.~~ Until the Copermittee has updated its jurisdictional runoff management program document with the requirements of Provision E, the Copermittee must continue implementing its current jurisdictional runoff management program.

1. Modification of Jurisdictional Runoff Management Program Requirements

~~The requirements of this section apply to each Copermittee on a jurisdiction-wide basis. Copermittees that are in multiple WMAs may implement any activity or requirement at a level different than a specified minimum within any individual WMA so long as the requirement (as specified below) is met for the jurisdiction as a whole and compliance with all other applicable permit directives is maintained jurisdictionally and within each WMA.~~

~~Upon approval of the Executive Officer, specific minimum requirements may be modified or waived as follows:~~

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a. Modifications within a WMA

Specific requirements may be reduced or waived for a WMA or a jurisdictional portion of a WMA only where the following conditions have been met:

- i. The proposed change must be approved as a part of the approval of a Water Quality Improvement Plan or any update to it;
- ii. Activities or requirements that can be reasonably demonstrated to provide an equivalent or higher level of water quality protection must be substituted for those being reduced or waived;
- iii. Approved modifications will apply only to the portion of the WMA applicable to the Copermittee or Copermittees for which an approval has been granted; and
- iv. Where a requirement has been reduced or waived within any WMA or portion of it, the requirement shall continue to apply to the remainder of the WMA, and to all remaining areas within the jurisdiction of the respective Copermittee(s) for which the modification has been granted.

b. Modifications within a Jurisdiction (Jurisdiction-Wide)

Specific requirements may be reduced or waived on a jurisdictional basis only where the following conditions have been met:

- i. The Copermittee's proposed JRMP modifications must be submitted to the San Diego Water Board within 3 months of approval of the Water Quality Improvement Plan. The San Diego Water Board will issue a public notice and solicit public comments on the JRMP modification for a minimum of 30 days. Based on the comments received, the San Diego Water Board will determine whether to hold a public hearing or to limit public input to submittal of written comments. If no hearing is held the San Diego Water Board will notify the Copermittee that the JRMP modification has been approved following its review and determination that it meets the requirements of this Order;
- ii. On RWQCB approval, the Copermittee's JRMP must be amended per Section II.F.2.a. to incorporate the modification(s);
- iii. Activities or requirements that can be reasonably demonstrated to provide an equivalent or higher level of water quality protection must be substituted for those being reduced or waived; and
- iv. Applicable portions of any WQIP to which an approved modification applies must be modified to reference or incorporate it, and the updated WQIP made available on the Regional Clearinghouse pursuant to Provision F.4.

1. Legal Authority Establishment and Enforcement

- a. Each Copermittee must establish, maintain, and enforce adequate legal authority within its jurisdiction to control pollutant discharges into ~~and from~~ its MS4 through statute, ordinance, permit, contract, order, or similar means. This legal authority must, at a minimum, authorize the Copermittee to:
 - (1) ~~Effectively p~~Prohibit and eliminate ~~all~~ illicit discharges and illicit connections into its MS4;
 - (2) Control the contribution of pollutants in discharges of runoff associated with industrial and construction activity into its MS4 and control the quality of runoff from industrial and construction sites¹⁷; ~~including industrial and construction sites which that do not have coverage under the statewide General Permit for Discharges of Storm Water Associated with Industrial Activities (Industrial General Permit) or General Permit for Discharges of Storm Water Associated with Construction Activities (Construction General Permit), as well as to those sites which do not;~~
 - (3) Control the discharge of spills, dumping, or disposal of materials other than storm water into its MS4;
 - (4) The permittees are encouraged to enter into interagency agreements with owners of other MS4 systems, such as Caltrans, school and college districts, universities, Department of Defense, Native American Tribes, etc., to control the contribution of pollutants from one portion of the MS4s to another portion.
—i
 - (3) ~~Control through interagency agreements among Copermittees the contribution of pollutants from one portion MS4 to another portion of the MS4;~~
 - (4) ~~Control through interagency agreements with other owners of the MS4 such as Caltrans, the U.S. federal government, or sovereign Native American Tribes, where possible, the contribution of pollutants from one portion of the MS4 to another portion of the MS4;~~
 - (5) Require compliance with conditions in its statutes, ordinances, permits, contracts, orders, or similar means to hold dischargers to its MS4 accountable for their contributions of pollutants and flows;

¹⁷ The Permittees will only be responsible for administering and enforcing the codes and ordinances applicable to their jurisdictions (i.e., a municipality is not responsible for administering and/or enforcing a permit issued by the State of California).

~~(6)~~ Require the use of BMPs to prevent or reduce the discharge of pollutants in storm water from its MS4 to the MEP;

~~(6) Require documentation on the effectiveness of BMPs implemented to prevent or reduce the discharge of pollutants in storm water from its MS4 to the MEP;~~

~~(7)~~

~~(8)~~(7) Utilize enforcement mechanisms to require compliance with its statutes, ordinances, permits, contracts, orders, or similar means; and

~~(9)~~(8) Carry out all inspections, surveillance, and monitoring procedures necessary to determine compliance and noncompliance with its statutes, ordinances, permits, contracts, orders, or similar means and with the requirements of this Order, including the effective prohibition of illicit discharges and connections to its MS4. The Copermittee's ordinance must include adequate legal authority, to the extent permitted by California and Federal Law and subject to the limitations on municipal action under the constitutions of California and the United States, the Copermittee must also have authority to enter, monitor, inspect, take measurements, review and copy records, and require regular reports from industrial facilities, including construction sites, discharging into its MS4.

- b. With the first Annual Report required by Provision F.3.b, each Copermittee must submit a statement certified by its Principal Executive Officer, Ranking Elected Official, or Duly Authorized Representative that the Copermittee has taken the necessary steps to obtain and maintain full legal authority within its jurisdiction to implement and enforce each of the requirements contained in this Order.

2. Illicit Discharge Detection and Elimination

Each Copermittee must implement a program to actively detect and eliminate illicit discharges and improper disposal into the MS4, or otherwise require the discharger to apply for and obtain a separate NPDES permit. The illicit discharge detection and elimination program must include, at a minimum, the following requirements:

a. NON-STORM WATER DISCHARGES

Each Copermittee must address all non-storm water discharges as illicit discharges, where the likelihood exists that they are a source of pollutants to the waters of the state, unless a non-storm water discharge is either identified as a discharge authorized by a separate NPDES permit, or identified as a category of non-storm water discharges or flows that must be addressed pursuant to the following requirements:

~~(1) Discharges of non-storm water to the MS4 from the following categories must~~

PROVISION E: JURISDICTIONAL RUNOFF MANAGEMENT PROGRAMS

E.1. Legal Authority Establishment and Enforcement

E.2. Illicit Discharge Detection and Elimination

~~be addressed as illicit discharges unless the discharge has coverage under NPDES Permit No. CAG919001 (Order No. R9-2007-0034, or subsequent order) for discharges to San Diego Bay, or NPDES Permit No. CAG919002 (Order No. R9-2008-0002, or subsequent order) for discharges to surface waters other than San Diego Bay:~~

~~(a) Uncontaminated pumped ground water;~~

~~(b) Discharges from foundation drains;~~

~~(c) Water from crawl space pumps; and~~

~~(d) Water from footing drains.~~

~~(2)~~(1) Discharges of non-storm water from water line flushing and water main breaks to the MS4 must be addressed as illicit discharges unless the discharge has coverage under a valid NPDES Permit ~~No. CAG-679001 (Order No. R9-2010-0003, or subsequent order)~~. This includes water line flushing and water main break discharges from water purveyors under the Copermittee's jurisdiction that has been issued a water supply permit by the California Department of Public Health or federal military installations. Discharges from recycled or reclaimed water lines to the MS4 must be addressed as illicit discharges, unless the discharges have coverage under a separate NPDES permit.

~~(3)~~(2) Discharges of non-storm water to the MS4 from the following categories must be addressed by the Copermittee as illicit discharges only if the Copermittee or the San Diego Water Board identifies the discharge as a source of pollutants to receiving waters within the Copermittee's jurisdiction:

(a) Diverted stream flows;

(b) Rising ground waters;

(c) Uncontaminated ground water infiltration to MS4s;

(d) Uncontaminated pumped ground water;

~~(e)~~(e) Discharges from foundation drains;

(f) Springs;

(g) Water from crawl space pumps;

~~(d)~~(h) Water from footing drains;

~~(e)~~(i) _____ Flows from riparian habitats and wetlands; and

~~(f)~~(i) _____ Discharges from potable water sources.

~~(4)~~(3) Discharges of non-storm water into the MS4 from the following categories must be controlled by the requirements given below through statute, ordinance, permit, contract, order, or similar means where there is evidence that those discharges are a source of pollutants to waters of the state. Discharges of non-storm water into the MS4 from the following categories not controlled by the requirements given below through statute, ordinance, permit, contract, order, or similar means must be addressed by the Copermittee as illicit discharges.

(a) Air conditioning condensation

The discharge of air conditioning condensation must-should be directed to landscaped areas or other pervious surfaces where feasible;

(b) Individual residential vehicle washing – Residents should be encouraged, through public outreach and education, to implement the following when washing their vehicles:

- (i) Direct tThe discharge of wash water must be directed to landscaped areas or other pervious surfaces where feasible, and
- (ii) Minimize the use of water for vehicle washing, use as little washing detergent and other vehicle wash products as possible, wash vehicles at commercial wash facilities, and implement other practices or behaviors that will prevent the discharge of pollutants associated with individual residential vehicle washing from entering the MS4; and

(c) Dechlorinated swimming pool discharges

- (i) Eliminate residual chlorine, algaecide, filter backwash, or other pollutants from swimming pools prior to discharging to the MS4, and
- (ii) The discharge of saline swimming pool water to the MS4 must be directed to the sanitary sewer (with approval from the sanitary sewer agency) landscaped areas, or other pervious surfaces that can accommodate the volume of water, or to the MS4 if the MS4 discharges to a saltwater receiving water.

~~(5)~~(4) Firefighting discharges to the MS4 must be addressed by the Copermittees as illicit discharges only if the Copermittee or the San Diego Water Board identifies the discharge as a significant source of pollutants to receiving waters. Firefighting discharges to the MS4 not identified as a

~~significant source of pollutants to receiving waters, must be addressed, at a minimum,~~ as follows:

(a) Non-emergency firefighting discharges

- (i) Building fire suppression system maintenance discharges (e.g. sprinkler line flushing) to the MS4 must be addressed as illicit discharges.
- (ii) Non-emergency firefighting discharges (i.e., discharges from controlled or practice blazes, firefighting training, and maintenance activities not associated with building fire suppression systems) must be addressed by a program, to be developed and implemented by the Copermittee in conjunction with the local Fire Authority/District, to reduce or eliminate pollutants in such discharges from entering the MS4.

~~(b) Emergency firefighting discharges,~~
(b)

~~(b) Each Copermittee must develop and encourage implementation of BMPs to reduce or eliminate pollutants in emergency firefighting discharges to the MS4s and receiving waters within its jurisdiction. During emergency situations, priority of efforts should be directed toward life, property, and the environment (in descending order). BMPs should not interfere with immediate emergency response operations or impact public health and safety. Emergency fire fighting flows (i.e., flows necessary for the protection of life or property) do not require BMPs and need not be prohibited. As part of the Jurisdictional Runoff Management Plan (JRMP), each Copermittee must develop and implement a program to address pollutants from non-emergency fire fighting flows (i.e., flows from controlled or practice blazes and maintenance activities) identified by the Copermittee to be significant sources of pollutants to waters of the United States.~~

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~~(6)(5)~~ If the Copermittee or San Diego Water Board identifies any category of non-storm water discharges listed under Provisions E.2.a.(1)-(4) as a source of pollutants to receiving waters, the category must be prohibited through ordinance, order, or similar means and addressed as an illicit discharge.

b. PREVENT AND DETECT ILLICIT DISCHARGES AND CONNECTIONS

Each Copermittee must include the following measures within its program to prevent and detect illicit discharges to the MS4:

- (1) Each Copermittee must maintain an updated map of its entire MS4 and the corresponding drainage areas. The accuracy of the MS4 map must be confirmed during non-storm water MS4 monitoring events. The MS4 map

must be included as part of the jurisdictional runoff management program document. Any geographic information system (GIS) layers or files used by the Copermittee to maintain the MS4 map must be made available to the San Diego Water Board upon request. The MS4 map must identify the following:

- (a) All segments of the MS4 owned, operated, and maintained by the Copermittee,
 - (b) All known locations of inlets that discharge and/or collect runoff into the Copermittee's MS4,
 - (c) All known locations of connections with other MS4s not owned or operated by the Copermittee (e.g. Caltrans MS4s),
 - (d) All known locations of MS4 outfalls that discharge runoff collected from areas within the Copermittee's jurisdiction,
 - (e) All segments of receiving waters within the Copermittee's jurisdiction that receive and convey runoff discharged from the Copermittee's MS4 outfalls (~~i.e., receiving water segments that are both a receiving water and part of the MS4~~), and
 - (f) Locations of the non-storm water MS4 monitoring stations, identified pursuant to Provision [D.1.a.\(1\)\(a\)](#), within its jurisdiction;
- (2) ~~Each Copermittee must use~~ Copermittee personnel and contractors should to assist in identifying and reporting illicit discharges and connections, if observed during the course of their daily employment activities;
- (3) Each Copermittee must promote, publicize, and facilitate public reporting of the presence of illicit discharges or water quality impacts associated with discharges ~~into or from~~ the MS4. Each Copermittee must facilitate public reporting through development and operation of a public hotline. Public hotlines can be Copermittee-specific or shared by the Copermittees. All public hotlines must be capable of receiving reports in both English and Spanish 24 hours per day and seven days per week;
- (4) Each Copermittee must implement practices and procedures (including a notification mechanism) to prevent, respond to, contain, and clean up any spills that may discharge into the MS4 within their jurisdiction from any source. The Copermittee must coordinate with spill response teams to prevent to the extent possible entry of spills into the MS4, and prevent contamination of surface water, ground water, and soil. The Copermittee must coordinate spill prevention, containment, and response activities throughout all appropriate Copermittee departments, programs, and agencies; and

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(4)(5) Each Copermittee must implement practices and procedures to prevent and limit infiltration of seepage from sanitary sewers (including private laterals and failing septic systems) to the MS4.

c. VISUAL OBSERVATIONS, FIELD SCREENING AND/OR MONITORING

Each Copermittee must conduct visual observations, field screening and/or monitoring of MS4 outfalls and other portions of its MS4 within its jurisdiction to detect non-storm water and illicit discharges and connections to the MS4 in accordance with the jurisdictional non-storm water MS4 monitoring program requirements in Provision D.1.a.(1).

d. INVESTIGATE AND ELIMINATE ILLICIT DISCHARGES AND CONNECTIONS

Each Copermittee must include the following measures within its program to investigate and eliminate illicit discharges to the MS4:

(1) Each Copermittee must prioritize and determine when follow-up investigations will be performed in response to visual observations and/or water quality monitoring data collected during an investigation of a detected non-storm water or illicit discharge ~~into or from~~ the MS4. The criteria for follow-up investigations must include the following:

- (a) Pollutants identified as causing or contributing to the highest water quality priorities identified in the Water Quality Improvement Plan;
- (b) Pollutants identified as causing or contributing, or are threatening to cause or contribute to impairments in water bodies on the 303(d) List and/or in environmentally sensitive areas (ESAs), located within its jurisdiction;
- (c) Pollutants identified from sources or land uses known to exist within the area, drainage basin, or watershed that discharges to the portion of the MS4 within its jurisdiction included in the investigation; and
- (d) Pollutants identified as causing or contributing to and exceedance of an NAL described in Provision C.1; and
- (e) Pollutants identified as an immediate and significant threat to human health or the environment.

(2) Each Copermittee must implement procedures to investigate and inspect portions of its MS4 that, based on reports, ~~or~~ notifications, visual observations, field screening, monitoring, or other appropriate information, indicate a reasonable potential of ~~receiving, containing, or~~ discharging pollutants to receiving waters within the Copermittees jurisdiction due to illicit discharges or, illicit connections, ~~or other sources of non-storm water~~. The

procedures must include the following:

- (a) The Copermittee may develop criteria to assess the validity of, and prioritize the response to, each report or notification received. Each Copermittee must respond to each report or notification (e.g., public hotline reports, staff or contractor reports and notifications, etc.) of an incident in a timely manner. ~~The Copermittee may develop criteria to assess the validity of, and prioritize the response to, each report or notification received;~~
- ~~(b) Each Copermittee must immediately investigate and seek to identify the source(s) of discharges of non-storm water where flows are observed in and from the MS4 during the field screening and monitoring required pursuant to Provision D.1.a.(1). The investigation must include field investigations to identify sources or potential sources for the discharge, unless the source or potential source has already been identified during previous investigations;~~
- ~~(c) Each Copermittee must investigate and seek to identify the source(s) of non-storm water discharges from the MS4 where there is evidence of non-storm water having been discharged into or from the MS4 (e.g., pooled water). The investigation may include field investigations, reviewing Copermittee inventories, and other land use data to identify potential sources of the discharge; and~~
- ~~(d)~~(b) Procedures should address field investigations to identify sources or potential sources for the discharge, unless the source or potential source has already been identified during previous investigations.
 - (i) Obvious illicit discharges must be immediately investigated to identify the source(s) of discharges of non-storm water where flows are observed in and from the MS4 during the field screening and monitoring required pursuant to Provision D.1.a.(1);
 - (ii) The investigation must include field investigations to identify sources or potential sources for the discharge, unless the source or potential source has already been identified during previous investigations;
 - (iii) The investigation may include field investigations, reviewing Copermittee inventories, and other land use data to identify potential sources of the discharge; and
 - ~~(i)~~(iv) Procedures should address tracking of illicit discharges and connections.

(3) Each Copermittee must maintain records and a database of the

investigations, including the following information:

- (i) Location of incident, including hydrologic subarea, portion of MS4 receiving the non-storm water or illicit discharge, and point of discharge or potential discharge from MS4 to receiving water,
- (ii) Source of information initiating the investigation (e.g., public hotline reports, staff or contractor reports and notifications, monitoring data, etc.),
- (iii) Date the information used to initiate the investigation was received,
- (iv) Date the investigation was initiated,
- (v) Dates of follow-up investigations,
- (vi) Identified or suspected source of the illicit discharge or connection, if determined,
- (vii) Known or suspected related incidents, if any,
- (viii) Result of the investigation, and
- (ix) If a source cannot be identified and the investigation is not continued, a rationale for why a discharge does not pose a threat to water quality and/or does not require additional investigation.

(4) Each Copermittee must initiate the implementation of procedures, in a timely manner, to detect, control, and/or eliminate all detected and identified illicit discharges and connections within its jurisdiction. The procedures must include the following:

- (a) ~~Procedures should address Each Copermittee must enforce its~~ legal authority, as required under Provision E.1, to eliminate illicit discharges and connections to ~~the~~ MS4. If the Copermittee identifies the source as a controllable ~~source of non-storm water or~~ illicit discharge or connection, the Copermittee must implement its Enforcement Response Plan pursuant to Provision E.6 and enforce its legal authority to effectively prohibit and eliminate illicit discharges and connections to its MS4. Responses to discharges may include:
 - (i) If the Copermittee identifies the source of the discharge as a category of non-storm water discharges in Provision E.2.a, and the discharge ~~to or from the MS4~~ is in exceedance of NALs developed ~~under Provision C.4~~ in the Water Quality Implementation Plan, then the Copermittees must determine if this is an isolated incident or set of circumstances, or if the category of discharge must be addressed through the prohibition of that category of discharge as an illicit discharge pursuant to Provision E.2.a.(5);

(ii) If the Copermittee suspects the source of the non-storm water discharge as natural in origin (i.e. non-anthropogenically influenced) and in conveyance into the MS4, then the Copermittee must ~~collect the data and evidence necessary to demonstrate to the San Diego Water Board that it is natural in origin; and document the rationale for why the discharge does not need further investigation. This documentation shall be included in the Annual Report.~~

(iii) If the Copermittee is unable to identify ~~and document~~ the source of a recurring, ~~documented non-storm water illicit~~ discharge ~~into or from~~ the MS4, then the Copermittee must ~~address the discharge as an illicit discharge and~~ update its jurisdictional runoff management program to address the common and suspected sources of the non-storm water discharge within its jurisdiction in accordance with the Copermittee's priorities.

(5) Each Copermittee must submit a summary of the ~~non-storm water discharges and~~ illicit discharges and connections investigated and eliminated within its jurisdiction with each Annual Report required under Provision F.3.b of this Order.

3. Development Planning

Each Copermittee ~~within their respective jurisdictions,~~ must ~~use their land use/planning authorities to~~ implement a development planning program that includes, at a minimum, the following requirements.

a. ~~PERMANENT~~ BMP REQUIREMENTS FOR ALL DEVELOPMENT PROJECTS

Each Copermittee, ~~as practical and feasible,~~ must prescribe ~~the following~~ BMP requirements during the planning process (i.e. prior to project approval and issuance of grading or building permits) for all development projects ~~(regardless of project type or size),~~ where local permits are issued, including unpaved roads ~~and flood management projects, except emergency projects implemented for the protection of persons and property.~~

(1) General Requirements

- (a) All BMPs must be located so as to remove pollutants from runoff prior to its discharge to any receiving waters, and as close to the source as possible;
- (b) Multiple development projects may use shared ~~permanent treatment control or structural LID~~ BMPs as long as construction of any shared BMP is completed prior to the use or occupation of any development project from which the BMP will receive runoff; and

- (c) ~~Treatment control and structural LID~~~~Permanent~~ BMPs must not be constructed within a waters of the U.S. or waters of the state.

(2) Source Control BMP Requirements

The following source control BMPs must be implemented at all development projects where applicable and feasible:

- (a) Prevention of illicit discharges into the MS4;
- (b) Storm drain system stenciling or signage;
- (c) Properly designed outdoor material storage areas;
- (d) Properly designed outdoor work areas;
- (e) Properly designed trash storage areas; and
- (f) Any additional BMPs necessary to minimize pollutant generation at each project.

(3) Low Impact Development (LID) BMP Requirements

The following LID BMPs must be implemented at all development projects where applicable and feasible¹⁸:

- (a) Maintenance or restoration of natural storage reservoirs and drainage corridors (including topographic depressions, areas of permeable soils, natural swales, and ephemeral and intermittent streams);¹⁹
- (b) Buffer zones for natural water bodies (where buffer zones are technically infeasible, require project applicant to include other buffers such as trees, access restrictions, etc.);
- (c) Conservation of natural areas within the project footprint including existing trees, other vegetation, and soils;
- (d) Construction of streets, sidewalks, or parking lot aisles to the minimum widths necessary, provided public safety is not compromised;
- (e) Minimization of the impervious footprint of the project;

¹⁸ Implementation of LID BMPs shall be consistent with technical guidance developed by the Copermittees.

¹⁹ Development projects proposing to dredge or fill materials in waters of the U.S. must obtain a CWA Section 401 Water Quality Certification. Projects proposing to dredge or fill waters of the State must obtain Waste Discharge Requirements.

- (f) Minimization of soil compaction to landscaped areas;
- (g) Disconnection of impervious surfaces through distributed pervious areas;
- (h) Landscaped or other pervious areas designed and constructed to effectively receive and infiltrate, retain and/or treat runoff from impervious areas, prior to discharge to the MS4;
- (i) Small collection strategies located at, or as close as possible to, the source (i.e. the point where storm water initially meets the ground) to minimize the transport of runoff and pollutants to receiving waters;
- (j) Use of permeable materials for projects with low traffic areas and appropriate soil conditions;
- (k) Landscaping with native or drought tolerant species; and
- (l) Harvesting and using precipitation.

(4) Long-Term ~~Treatment Control/Structural LID~~Permanent BMP Maintenance

Each Copermittee must require the project applicant to submit proof of the mechanism under which ongoing long-term maintenance of all treatment control and structural LID~~permanent~~ BMPs will be conducted.

(5) Infiltration and Groundwater Protection

- (a) Infiltration and treatment control BMPs designed to primarily function as large, centralized infiltration devices (such as large infiltration trenches and infiltration basins) must not cause or contribute to an exceedance of an applicable groundwater quality objective. At a minimum, such infiltration and treatment control BMPs must be in conformance with the design criteria listed below, unless the development project applicant demonstrates to the Copermittee that one or more of the specific design criteria listed below are not necessary to protect groundwater quality. The design criteria listed below do not apply to small infiltration systems dispersed throughout a development project.
- (i) Runoff must undergo pretreatment such as sedimentation or filtration prior to infiltration;
 - (ii) Pollution prevention and source control BMPs must be implemented at a level appropriate to protect groundwater quality at sites where infiltration treatment control BMPs are to be used;
 - (iii) Infiltration treatment control BMPs must be adequately maintained to remove pollutants in storm water to the MEP;

- (iv) The vertical distance from the base of any infiltration treatment control BMP to the seasonal high groundwater mark must be at least 10 feet. Where groundwater basins do not support beneficial uses, this vertical distance criteria may be reduced, provided groundwater quality is maintained;
 - (v) The soil through which infiltration is to occur must have physical and chemical characteristics (e.g., appropriate cation exchange capacity, organic content, clay content, and infiltration rate) which are adequate for proper infiltration durations and treatment of runoff for the protection of groundwater beneficial uses;
 - (vi) Infiltration treatment control BMPs must not be used for areas of industrial or light industrial activity, and other high threat to water quality land uses and activities as designated by each Copermittee, unless first treated or filtered to remove pollutants prior to infiltration; and
 - (vii) Infiltration treatment control BMPs must be located a minimum of 100 feet horizontally from any water supply wells.
- (b) The Copermittees may collectively or individually develop alternative mandatory design criteria to that listed above for infiltration and treatment control BMPs which are designed to primarily function as centralized infiltration devices. Before implementing the alternative design criteria in the development planning process the Copermittee(s) must:
- (i) Notify the San Diego Water Board of the intent to implement the alternative design criteria submitted; and
 - (ii) Comply with any conditions set by the San Diego Water Board.

b. PRIORITY DEVELOPMENT PROJECTS

(1) Definition of Priority Development Project

Priority Development Projects include the following:

- (a) ~~All new development projects that fall under the Priority Development Project categories listed under Provision E.3.b.(2). Where a new development project feature, such as a parking lot, falls into a Priority Development Project category, the entire project footprint is subject to Priority Development Project requirements; and~~
- (b) Those redevelopment projects that create, add, or replace at least 5,000 square feet of impervious surfaces on an already developed site, ~~or and~~ the redevelopment project is a Priority Development Project category listed under Provision [E.3.b.\(2\)](#). Where redevelopment results in an

increase of less than fifty percent of the impervious surfaces of a previously existing development, and the existing development was not subject to Priority Development Project requirements, the performance and sizing requirements discussed in Provisions E.3.c.(2) and E.3.c.(3) apply only to the addition or replacement, and not to the entire development. Where redevelopment results in an increase of more than fifty percent of the impervious surfaces of a previously existing development and was not subject to previous Priority Project Development requirements, the performance and sizing requirements apply to the entire development.

(c) Projects where redevelopment results in an increase of more than fifty percent of impervious surfaces of a previously existing development, and the existing development was subject to previous Priority Project Development requirements, only the altered portion is subject to the new Priority Development Project requirements.

(2) Priority Development Project Categories

- (a) New development projects that create 10,000 square feet or more of impervious surfaces (collectively over the entire project site). This category includes commercial, industrial, residential, mixed-use, and public development projects on public or private land which fall under the planning and building authority of the Copermittee.
- (b) Automotive repair shops. This category is defined as a facility that is categorized in any one of the following Standard Industrial Classification (SIC) codes: 5013, 5014, 5541, 7532-7534, or 7536-7539.
- (c) Restaurants. This category is defined as a facility that sells prepared foods and drinks for consumption, including stationary lunch counters and refreshment stands selling prepared foods and drinks for immediate consumption (SIC code 5812), where the land area for development is 5,000 square feet or more of impervious surface.
- (d) Hillside development projects. This category includes any development which creates 5,000 square feet or more of impervious surface which is located in an area with known erosive soil conditions, where the development will grade on any natural slope that is twenty-five percent or greater.
- (e) Environmentally sensitive areas (ESAs). This category includes any development located within, directly adjacent to, or discharging directly to an ESA, which either creates 2,500 square feet of impervious surface on a proposed project site or increases the area of imperviousness of a

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proposed project site to 10 percent or more of its naturally occurring condition. "Directly adjacent to" means situated within 200 feet of the ESA. "Discharging directly to" means outflow from a drainage conveyance system that collects runoff from the subject development or redevelopment site and terminates at or in receiving waters within the ESA.

- (f) Parking lots. This category is defined as a land area or facility for the temporary parking or storage of motor vehicles used personally, for business, or for commerce that has 5,000 square feet or more of impervious surface.

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- (g) Streets, roads, highways, and freeways, ~~and residential driveways~~. This category is defined as any paved impervious surface that is 5,000 square feet or more used for the transportation of automobiles, trucks, motorcycles, and other internal combustion vehicles.
- (h) Retail gasoline outlets (RGOs). This category includes RGOs that meet the following criteria: (a) 5,000 square feet or more of impervious surface or (b) a projected Average Daily Traffic (ADT) of 100 or more vehicles per day.
- (i) Large development projects. This category includes any post-construction pollutant-generating new development projects that result in the disturbance of one acre or more of land.

(3) Priority Development Project Exemptions

Each Copermittee has the discretion to exempt the following projects from being defined as Priority Development Projects:

- (a) Sidewalks constructed as part of new streets or roads and designed to direct storm water runoff to adjacent vegetated areas;
- (b) Bicycle lanes that are constructed as part of new streets or roads but are not hydraulically connected to the new streets or roads and designed to direct storm water runoff to adjacent vegetated areas;
- (c) Impervious trails constructed and designed to direct storm water runoff to adjacent vegetated areas, or other non-erodible permeable areas;
- (d) Sidewalks, bicycle lanes, ~~or~~ trails, driveways, or parking lots constructed with permeable surfaces.
- (e) Single-family residential projects that are not part of a larger development or proposed subdivision.
- (f) Any paved impervious surface that is 5,000 square feet or more used for the transportation of automobiles, trucks, motorcycles, and other vehicles that follows the USEPA guidance regarding Management Wet Weather with Green Infrastructure: Green Streets²⁰ to the MEP.
- (d)(g) Emergency public safety projects in any of the Priority Development Categories may be excluded if the delay caused due to the requirement for a SSMP compromises public safety, public health and/or environmental protection.

²⁰ <http://water.epa.gov/infrastructure/greeninfrastructure/index.cfm>

c. **PRIORITY DEVELOPMENT PROJECT ~~PERMANENT~~ BMP PERFORMANCE AND SIZING REQUIREMENTS**

In addition to the BMP requirements listed for all development projects under Provision E.3.a, Priority Development Projects must also implement ~~permanent~~ BMPs that conform to performance and sizing requirements.

(1) Source Control BMP Requirements

Each Copermittee must require each Priority Development Project to implement applicable source control BMPs listed under Provision E.3.a.(2).

(2) Retention and Treatment Control BMP Requirements

Each Copermittee must require each Priority Development Project to implement BMPs to retain and treat pollutants onsite in the following order:

(a) Each Priority Development Project must be required to implement LID BMPs as described in Provision E.3.a.(3) or offsite regional groundwater replenishment if the following conditions apply:

(i) The volume of stormwater runoff used to replenish groundwater must be equal to or greater than the design capture volume;

(ii) Pollutant reduction is provided through treatment of the design capture volume at the project site.

(a)(b) Each Priority Development Project must be required to implement LID BMPs that are sized and designed to retain the volume equivalent to runoff produced from a 24-hour 85th percentile storm event²¹ or to retain the difference in the volume between the runoff volume produced in the post-project condition as compared to the pre-project condition resulting from a 24-hour 85th percentile storm event (“design capture volume”);

²¹ This volume is not a single volume to be applied to all areas covered by this Order. The size of the 85th percentile storm event is different for various parts of the San Diego Region. The Copermittees are encouraged to calculate the 85th percentile storm event for each of its jurisdictions using local rain data pertinent to its particular jurisdiction. In addition, isopluvial maps may be used to extrapolate rainfall data to areas where insufficient data exists in order to determine the volume of runoff for the local 85th percentile storm event in such areas. Where the Copermittees will use isopluvial maps to determine the 85th percentile storm event in areas lacking rain data, the Copermittees must describe their method for using isopluvial maps in its BMP Design Manuals.

(c) If onsite retention of the design capture volume using LID BMPs is technically infeasible per Provision E.3.c.(4) flow-thru LID ~~and/or conventional treatment control~~ BMPs must be implemented to treat the portion of the design capture volume that is not retained onsite. Flow-thru LID treatment control BMPs must be designed for an appropriate surface loading rate to prevent erosion, scour and channeling within the BMP.

~~(b)~~(d) If retention and/or equivalent pollutant removal of the design capture volume to meet E.3.c.(2)(a) or E.3.c.(2)(b) are infeasible onsite ~~Additionally,~~ project applicants must perform mitigation for the portion of the pollutant load in the design capture volume that is not retained onsite, as described in Provision E.3.c.(4)(c).

~~(e)~~(e) All onsite treatment control BMPs must:

- (i) Be correctly sized and designed so as to remove pollutants from storm water to the MEP;
- (ii) Be sized to comply with the following numeric sizing criteria:
 - [a] Volume-based treatment control BMPs must be designed to mitigate (infiltrate, filter, or treat) the remaining portion of the design capture volume that was not retained onsite; or
 - [b] Flow-based treatment control BMPs must be designed to mitigate (filter or treat) either: 1) the maximum flow rate of runoff produced from a rainfall intensity of 0.2 inch of rainfall per hour, for each hour of a storm event; or 2) the maximum flow rate of runoff produced by the 85th percentile hourly rainfall intensity (for each hour of a storm event), as determined from the local historical rainfall record, multiplied by a factor of two.
- (iii) Be ranked with high or medium pollutant removal efficiency for the project's most significant pollutants of concern. Treatment control BMPs with a low removal efficiency ranking must only be approved by a Copermittee when a feasibility analysis has been conducted which exhibits that implementation of treatment control BMPs with high or medium removal efficiency rankings are infeasible for a Priority Development Project or portion of a Priority Development Project.

(3) Hydromodification Management BMP Requirements

Each Copermittee must require each Priority Development Projects greater than one acre to implement hydromodification management BMPs as described in the Copermittees' current HMP, as applicable. ~~so that:~~

(a) Post-project runoff flow rates and durations do not exceed pre-project

~~development (naturally occurring)~~ runoff flow rates and durations by more than 10 percent (for the range of flows that result in increased potential for erosion or degraded channel conditions downstream of Priority Development Projects).

~~(i) In evaluating the range of flows that results in increased potential for erosion of natural (non-hardened) channels, the lower boundary must correspond with the critical channel flow that produces the critical shear stress that initiates channel bed movement or that erodes the toe of channel banks.~~

~~(ii) For artificially hardened channels, analysis to identify the lower boundary must use characteristics of a natural stream segment similar to that found in the watershed. The lower boundary must correspond with the critical channel flow that produces the critical shear stress that initiates channel bed movement or erodes the toe of the channel banks.~~

~~(iii)~~(i) The Copermittees may use monitoring results pursuant to Provision [D.2.b.\(6\)](#) to re-define the range of flows resulting in increased potential for erosion or degraded channel conditions, as warranted by the data.

(b) Post-project runoff flow rates and durations must compensate for the loss of sediment supply due to the development project, should loss of sediment supply occur as a result of the development project.

(c) If hydromodification management BMPs are technically infeasible per Provision [E.3.c.\(4\)](#) or it is identified that stream rehabilitation projects or regional mitigation projects are preferable for restoration of watershed functions, project applicants must perform mitigation for the portion of the runoff volume that is not controlled and will cause or contribute to increased potential for erosion of receiving waters downstream of the Priority Development Project, as described in Provision [E.3.c.\(4\)\(c\)](#) or contribute to an established mitigation fund per Provision [\(3\)\(d\)\(v\)](#).

(d) Offsite Hydromodification Mitigation Program

Each Copermittee, in collaboration with the other Copermittees may develop and implement a watershed based approach to hydromodification management that may include the following:

(i) Analysis to identify current land uses and proposed future development and changes in land use.

(ii) Development of watershed hydromodification management objectives.

(iii) Development of criteria to identify when stream rehabilitation or regional mitigation projects are preferable to onsite hydromodification controls for PDPs, in order to restore watershed functions and processes..

(iv) Identification of opportunities for stream rehabilitation and mitigation projects to restore watershed functions and processes

(v) Development of a mitigation fund and program for implementation of stream rehabilitation and mitigation projects

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(e)(e) Exemptions

Each Copermittee has the discretion to exempt a Priority Development Project from the hydromodification management BMP requirements where the project:

- (i) Discharges storm water runoff into underground storm drains discharging directly to water storage reservoirs, lakes, enclosed embayments, or the Pacific Ocean;
- (ii) Discharges storm water runoff into conveyance channels that are engineered for the capacity to convey the 10-year ultimate build out condition flow and are regularly maintained to ensure flow capacity whose bed and bank are concrete lined all the way from the point of discharge to water storage reservoirs, lakes, enclosed embayments, or the Pacific Ocean;
- (iii) Discharges to large rivers where large rivers are defined as reaches for which the contributing drainage area exceeds 100 square miles and with a 100-year design flow in excess of 20,000 cfs;
- (iv) Discharges from infill redevelopment projects that meet criteria to be established in the Permittees' HMPs; or
- (v) In-stream flood control and restoration projects.
- (vi) Discharges storm water runoff into other areas identified by the San Diego Water Board as exempt from the requirements of Provisions [E.3.c.\(3\)\(a\)-\(c\)](#).

(4) Alternative Compliance for Technical Infeasibility

At the discretion of each Copermittee, alternative compliance may be allowed for certain Priority Development Projects to comply with Provisions [E.3.c.\(2\)](#) and [E.3.c.\(3\)](#), subject to the following requirements:

(a) Applicability

Priority Development Projects may be allowed alternative compliance if:

- (i) The Copermittee reviews and approves site-specific hydrologic and/or design analysis performed by a registered professional engineer, geologist, architect, or landscape architect;
- (ii) The project applicant demonstrates, and the Copermittee determines and documents, that retention LID and/or hydromodification

management BMPs per Provisions E.3.c.(2) and E.3.c.(3) were incorporated into the project design to the maximum extent technically feasible given the project site conditions;

(iii) The project applicant is required to perform mitigation described in Provision E.3.c.(4)(c) with a net result of at least the same level of water quality protection as would have been achieved if the Priority Development Project had fully implemented the retention LID and hydromodification management BMP requirements under Provisions E.3.c.(2) and E.3.c.(3) onsite; or-

(iv) The project applicant is required to perform mitigation described in Provision E.3.c.(4)(c) and has the option or ability to contribute to a regionally important mitigation project/program as defined in the Water Quality Improvement Plan that would address strategic high-priority water quality protection and/or more-direct restoration of beneficial uses in receiving waters than if achieved if the Priority Development Project had fully implemented the retention LID and hydromodification management BMP requirements under Provisions E.3.c.(2) and E.3.c.(3) onsite.

(b) Criteria For Technical Infeasibility

Each Copermittee must develop, or develop in collaboration with the other Copermittees, criteria to determine technical infeasibility for fully implementing the retention LID and hydromodification management BMP requirements under Provisions E.3.c.(2) and E.3.c.(3) and include these requirements in the Treatment control/structural LID ~~Permanent~~ BMP Sizing Criteria Design Manual pursuant to Provision E.3.d. Technical infeasibility may result from conditions including, but not limited to:

- (i) Locations that cannot meet the infiltration and groundwater protection requirements in Provision E.3.a.(5) due to the presence of shallow bedrock, contaminated soils, contaminated groundwater, near surface groundwater, underground facilities, or utilities;
- (ii) Brownfield development sites or other locations where pollutant mobilization is a documented concern;
- (iii) The design of the site precludes the use of soil amendments, plantings of vegetation, or other designs that can be used to infiltrate and evapotranspirate runoff;
- (iv) Soils cannot be sufficiently amended to provide for the requisite infiltration rates;
- (v) Locations with geotechnical hazards;
- (vi) Insufficient onsite and/or offsite demand for storm water use;

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- (vii) Modifications to an existing building to manage storm water are not feasible due to structural or plumbing constraints; and
- (viii) Smart growth and infill or redevelopment locations where the density and/or nature of the project would create significant difficulty for compliance with Provisions [E.3.c.\(2\)](#) and [E.3.c.\(3\)](#) onsite.

(c) Mitigation

Priority Development Projects that meet the Copermittee's technical infeasibility criteria developed pursuant to Provision [E.3.c.\(4\)\(b\)](#) must be required to mitigate for the increased flow rates, increased flow durations, and/or increased pollutant loads expected to be discharged from the site. ~~For the pollutant load in the volume of storm water Copermittees may establish an offsite mitigation program that requires the developer to mitigate for the water quality equivalence~~ not retained onsite with retention LID BMPs, or increased potential erosion of downstream receiving waters not fully controlled onsite with hydromodification management BMPs, the Copermittee must require the project applicant to either 1) implement an offsite mitigation project, and/or 2) provide sufficient funding for a public or private offsite mitigation project via a mitigation fund.

(i) *Mitigation Project Locations*

Offsite mitigation projects must be implemented within the same hydrologic unit as the Priority Development Project, and preferably within the same hydrologic subarea. Mitigation projects outside of the hydrologic subarea but within the same hydrologic unit may be approved provided that the project applicant demonstrates that mitigation projects within the same hydrologic subarea are infeasible and that the mitigation project will address similar potential impacts expected from the Priority Development Project.

(ii) *Mitigation Project Types*

Offsite mitigation projects ~~must may~~ include, where applicable and feasible, retrofitting opportunities and stream and/or habitat rehabilitation or restoration opportunities identified in the Water Quality Improvement Plans, identified pursuant to Provision [B.3.a](#). Other offsite mitigation projects may include green streets or infrastructure projects, [groundwater recharge projects](#), or regional BMPs upstream of receiving waters. ~~In-stream rehabilitation or restoration measures to protect or prevent adverse physical changes to creek bed and banks must not include the use of non-naturally occurring hardscape material such as concrete, riprap, or gabions.~~ Project applicants seeking to utilize these alternative compliance provisions may propose other offsite mitigation projects, which the Copermittees may approve if they meet the requirements of Provision

E.3.c.(4)(a).

(iii) *Mitigation Project Timing*

The Copermittee and/or project applicant must develop a schedule for the completion of offsite mitigation projects, including milestone dates to identify, fund, design, and construct the projects. ~~PDP implemented offsite mitigation projects must be completed upon the granting of occupancy for the first project that contributed funds completion of the PDP, toward the offsite mitigation project,~~ unless a longer period is authorized by the San Diego Water Board. ~~The timing of mitigation projects associated with a Copermittee offsite mitigation program will be developed by the Copermittees as part of developing their offsite mitigation program.~~

(iv) *Mitigation Fund*

A Copermittee may choose to implement additional mitigation programs (e.g., pollutant credit system, mitigation fund) as a means for developing and implementing offsite mitigation projects, provided the projects conform to the requirements for project locations, types, and timing described above.

d. **UPDATE ~~PERMANENT TREATMENT CONTROL/STRUCTURAL LID~~ ~~STRUCTURAL BMP~~ SIZING CRITERIA DESIGN MANUAL (BMP DESIGN MANUAL)**

Each Copermittee must update its ~~Permanent Treatment Control/Structural LID~~ BMP Sizing Criteria Design Manual (BMP Design Manual)²² pursuant to Provision F.2.b or Provision F.5.a. Until the Copermittee has updated its BMP Design Manual with the requirements of Provision E.3.c, the Copermittee must continue implementing its current BMP Design Manual. Unless directed otherwise by the San Diego Water Board, the Copermittee must implement the BMP Design Manual within 180 days of completing the update. The update of the BMP Design Manual must include the following:

- (1) Updated procedures to determine the nature and extent of storm water requirements applicable to a potential development or redevelopment project. These procedures must inform project applicants of the storm water management requirements applicable to their project including, but not limited to, general requirements for all development projects, LID and conventional BMP design procedures and requirements, hydromodification management requirements, requirements specific to phased projects, and procedures specific to private developments and public improvement projects;
- (2) Updated procedures to identify pollutants and conditions of concern for selecting the most appropriate ~~permanent treatment control or structural LID~~

²² The Permanent BMP Sizing Criteria Design Manual was formerly known as the Standard Storm Water Mitigation Plan under Order Nos. R9-2007-0001, R9-2009-0002, and R9-2010-0016.

BMPs that consider, at a minimum, the following:

- (a) Receiving water quality (including pollutants for which receiving waters are listed as impaired under CWA section 303(d));
 - (b) Priority pollutants or receiving water conditions contributing to the highest water quality priorities identified in the Water Quality Improvement Plan;
 - (c) Land use type of the project and pollutants associated with that land use type; and
 - (d) Pollutants expected to be present onsite.
- (3) Updated procedures for designing permanent-treatment control or structural LID BMPs, including any updated performance and sizing requirements to be consistent with the requirements of Provision [E.3.c](#) for all BMPs listed in the BMP Design Manual;
 - (4) Long-term maintenance criteria for each BMP listed in the BMP Design Manual; and
 - (5) Criteria and mitigation requirements, in accordance with the requirements under Provision [E.3.c.\(4\)](#), if the Copermittee elects to allow alternative compliance for technical infeasibility within its jurisdiction.

e. PRIORITY DEVELOPMENT PROJECT BMP IMPLEMENTATION AND OVERSIGHT

Each Copermittee must implement a program to ensure permanent-treatment control or structural LID BMPs on all Priority Development Projects are designed, constructed, and maintained to remove pollutants in storm water to the MEP.

- (1) Permanent-Treatment Control/Structural LID BMP Approval and Verification Process
 - (a) Each Copermittee must ensure that for all Priority Development Project applications that have not received prior lawful approval by the Copermittee by 12 months after the adoption of this Order, or pursuant to Provision [F.5.a](#), the requirements of Provision [E.3](#) are implemented. For project applications that have received prior lawful approval by 12 months after the adoption of this Order, or pursuant to Provision [F.5.a](#), the Copermittee may allow previous land development requirements to apply.
 - (b) Each Copermittee must identify the roles and responsibilities of various municipal departments in implementing the permanent-treatment control/structural LID BMP requirements, including each stage of a project from application review and approval through BMP maintenance and

inspections.

- (c) Each Copermittee must ensure that appropriate easements and ownerships are properly recorded in public records and the information is conveyed to all appropriate parties when there is a change in project or site ownership.
- (d) Each Copermittee must ensure that prior to occupancy and/or intended use of any portion of the Priority Development Project, each ~~permanent~~ treatment control or -structural LID BMP must be inspected to verify that they have been constructed and are operating in compliance with all of its specifications, plans, permits, ordinances, and the requirements of this Order.

(2) Priority Development Project Inventory and Prioritization

- (a) Each Copermittee must develop and ~~regularly continuously~~ maintain a watershed-based database to track and inventory all Priority Development Projects and associated ~~permanent treatment control and structural LID~~ BMPs within their jurisdiction. Inventories must be accurate and complete beginning from January 2002 for the San Diego County Copermittees, February 2003 for the Orange County Copermittees, and July 2005 for the Riverside County Copermittees. The database must include, at a minimum, the following information:
 - (i) Priority Development Project location (address and hydrologic subarea);
 - (ii) Descriptions of BMP type(s);
 - (iii) Date(s) of construction;
 - (iv) Party responsible for treatment control/structural LID~~permanent~~ BMP maintenance;
 - (v) Dates and findings of treatment control/structural LID~~permanent~~ BMP maintenance verifications; and
 - (vi) Corrective actions and/or resolutions.
- (b) Each Copermittee must prioritize the Priority Development Projects with treatment control/structural LID~~permanent~~ BMPs within its jurisdiction. The designation of Priority Development Projects as high priority must consider the following:
 - (i) The highest water quality priorities identified in the Water Quality Improvement Plan;
 - (ii) Receiving water quality;

- (iii) Number and sizes of ~~treatment control/structural LID~~permanent BMPs;
- (iv) Recommended maintenance frequency of ~~treatment control/structural LID~~permanent BMPs;
- (v) Likelihood of operation and maintenance issues of ~~treatment control/structural LID~~permanent BMPs;
- (vi) Land use and expected pollutants generated; and
- (vii) Compliance record.

(3) ~~Treatment Control Structural LID Permanent~~ BMP Maintenance Verifications and Inspections

Each Copermittee is required to verify that ~~treatment control and structural LID~~permanent BMPs on each Priority Development Project are adequately maintained, and continue to operate effectively to remove pollutants in storm water to the MEP through inspections, self-certifications, surveys, or other equally effective approaches.

- (a) All (100 percent) of the ~~permanent~~treatment control and structural LID BMPs at Priority Development Projects that are designated as high priority must be inspected directly by the Copermittee annually prior to each rainy season;
- (b) For verifications performed through a means other than direct Copermittee inspection, adequate documentation must be required by the Copermittee to provide assurance that the required maintenance of ~~permanent~~treatment control and structural LID BMPs at each Priority Development Project has been completed; and
- (c) Appropriate follow-up measures (including re-inspections, enforcement, etc.) must be conducted to ensure that ~~permanent~~treatment control and structural LID BMPs at each Priority Development Project continue to reduce pollutants in storm water to the MEP as originally designed.

f. DEVELOPMENT PROJECT ENFORCEMENT

Each Copermittee must enforce its legal authority established pursuant to Provision [E.1](#) for all development projects, as necessary, to achieve compliance with the requirements of this Order, in accordance with its Enforcement Response Plan pursuant to Provision [E.6](#).

4. Construction Management

Each Copermittee must implement a construction management program within their jurisdiction that includes, at a minimum, the following requirements:

a. PROJECT APPROVAL PROCESS

Prior to approval and issuance of any construction, grading, or building permits for a project each Copermittee must:

- (1) Require a project-specific storm water pollution prevention plan (SWPPP), or ~~equivalent~~ construction BMP or erosion and sediment control plan, to be submitted by the project applicant for the Copermittee's approval;
- (2) Ensure the SWPPP, or ~~equivalent~~ construction BMP or erosion and sediment control plan, complies with the local grading ordinance, other applicable local ordinances, and the requirements of this Order;
- (3) Ensure the SWPPP, or ~~equivalent~~ construction BMP or erosion and sediment control plan, includes seasonally appropriate and effective BMPs and management measures described in Provision E.4.c, as applicable to the project; and

~~(4) Verify that the project applicant has obtained coverage under applicable permits, including, but not limited to the Construction General Permit, Clean Water Act Section 401 Water Quality Certification and Section 404 Permit, and California Department of Fish and Game Streambed Alteration Agreement.~~

~~(5)(4)~~

b. CONSTRUCTION SITE INVENTORY AND TRACKING

- (1) Each Copermittee must maintain, and update at least ~~monthly~~quarterly, a watershed-based inventory of all construction sites requiring construction, grading, or building permits within its jurisdiction. The inventory must include:
 - (a) Relevant contact information for each site (e.g., name, address, phone, and email for the owner and contractor);
 - (b) The basic site information including location (address and hydrologic

subarea), Waste Discharge Identification (WDID) number (if applicable), size of the site, and approximate area of disturbance;

- (c) Whether or not the site is considered a high threat to water quality, as defined in Provision E.4.b.(2) below;
 - (d) The project start and anticipated completion dates;
 - (e) Current construction phase;
 - (f) The required inspection frequency, as defined in the Copermittee's jurisdictional runoff management program document;
 - (g) The date the Copermittee approved the project-specific SWPPP, or equivalent construction BMP or erosion and sediment control plan; and
 - (h) Whether or not there are ongoing enforcement actions administered to the site.
- (2) Each Copermittee must identify all construction sites within its jurisdiction that represent a high threat to downstream surface water quality. At a minimum, high threat to water quality sites must include:
- (a) Sites located within a hydrologic subarea where sediment is known or suspected to contribute to the highest water quality priorities identified in the Water Quality Improvement Plan;
 - (b) Sites located within the same hydrologic subarea and tributary to a CWA section 303(d) water body segment impaired for sediment;
 - (c) Sites located within, directly adjacent to, or discharging directly to a receiving water within an ESA; and
 - (d) Other sites determined by the Copermittees or the San Diego Water Board as a high threat to water quality.

c. CONSTRUCTION SITE BMP AND MANAGEMENT MEASURE IMPLEMENTATION

Each Copermittee must implement, or require the implementation of effective

PROVISION E: JURISDICTIONAL RUNOFF MANAGEMENT PROGRAMS
E.4. Construction Management

BMPs to reduce discharges of pollutants in storm water from construction sites to the MEP, and prevent non-storm water discharges into the MS4. These BMPs must be site specific, seasonally appropriate, and construction phase appropriate. BMPs and management measures must be implemented at each construction site year round. Dry season BMP implementation must plan for and address unseasonal rain events that may occur during the dry season (May 1 through September 30). Copermittees must implement, or require the implementation of, BMPs and management measures in the following categories:

- (1) Project Planning;
- (2) Good Site Management “Housekeeping”, including waste management;
- (3) Non-storm Water Management;
- (4) Erosion Control;
- (5) Sediment Control;
- (6) Run-on and Run-off Control; and
- (7) Active/Passive Sediment Treatment Systems, where applicable.

d. CONSTRUCTION SITE INSPECTIONS

Each Copermittee must conduct construction site inspections to ensure compliance with its permits and applicable local ordinances, and the requirements of this Order. Priority for site inspections must consider threat to water quality pursuant to Provision [E.4.b](#) as well as the nature of the construction activity, topography, and the characteristics of soils and receiving water quality.

(1) Inspection Frequency

- (a) Each Copermittee must conduct inspections at all inventoried sites, including high threat to water quality sites, at an appropriate frequency for each phase of construction to ensure the site reduces the discharge of pollutants in storm water from construction sites to the MEP, and prevents non-storm water discharges from entering the MS4.
- (b) Each Copermittee must establish appropriate inspection frequencies for

PROVISION E: JURISDICTIONAL RUNOFF MANAGEMENT PROGRAMS
E.4. Construction Management

high threat to water quality sites, and all other sites, for each phase of construction. Inspection frequencies appropriate for addressing the highest water quality priorities identified in the Water Quality Improvement Plan, and for complying with the requirements of this Order must be identified in each Copermittee's jurisdictional runoff management program document.

- (c) Based upon inspection findings, each Copermittee must implement all follow-up actions (i.e., re-inspection, enforcement) necessary to ensure site compliance with its permits and applicable local ordinances, and the requirements of this Order.

(2) Inspection Content

Inspections of construction sites by the Copermittee must include, at a minimum:

- (a) Verification of coverage under the Construction General Permit (Notice of Intent (NOI) and/or WDID number) during initial inspections, when applicable;
- (b) Assessment of compliance with its permits and applicable local ordinances related to pollution prevention, including the implementation and maintenance of applicable BMPs;
- (c) Assessment of BMP adequacy and effectiveness;
- (d) Visual observations of actual non-storm water discharges;
- (e) Visual observations of actual or potential discharge of sediment and/or construction related materials from the site;
- (f) Visual observations of actual or potential illicit connections; and
- (g) If any violations are found and BMP enhancements are needed, inspectors must take and document appropriate actions in accordance with the Enforcement Response Plan pursuant to Provision [E.6](#).

(3) Inspection Tracking and Records

PROVISION E: JURISDICTIONAL RUNOFF MANAGEMENT PROGRAMS
E.4. Construction Management

Each Copermitee must track all inspections and re-inspections at all inventoried construction sites. The Copermitee must retain all inspection records in an electronic database or tabular format, which must be made available to the San Diego Water Board upon request. Inspection records must include, at a minimum:

- (a) Site name, location (address and hydrologic subarea), and WDID number (if applicable);
- (b) Inspection date;
- (c) Weather conditions during inspection;
- (d) Approximate amount of rainfall since last inspection;
- (e) Description and photo documentation of problems observed with BMPs and indication of need for BMP addition/repair/replacement and any scheduled re-inspection, and date of re-inspection;
- (f) Descriptions of any other specific inspection comments which must, at a minimum, include rationales for longer compliance time-;
- (g) Description of enforcement actions issued in accordance with the Enforcement Response Plan pursuant to Provision E.6; and
- (h) Resolution of problems noted and date problems fixed.

e. CONSTRUCTION SITE ENFORCEMENT

Each Copermitee must enforce its legal authority established pursuant to Provision E.1 for all its inventoried construction sites, as necessary, to achieve compliance with the requirements of this Order, in accordance with its Enforcement Response Plan pursuant to Provision E.6.

5. Existing Development Management

Each Copermitee must implement an existing development management program that includes, at a minimum, the following requirements:

a. EXISTING DEVELOPMENT INVENTORY AND TRACKING

Each Copermitee must maintain an updated watershed-based inventory and/or map of ~~all~~ its existing development that has the reasonable potential to discharge ~~may potentially generate~~ a pollutant load into and from the MS4. The map should be A continually regularly updated and identify map showing the locations of inventoried existing development categories listed below, the watershed management area boundaries, the water bodies, and the significant, regional retrofits implemented and pollutants generated at the inventoried existing

Comment [A3]: The OC Copermitees are offering alternative language for this section – see attachment for Existing Development. In lieu of the alternative language – the proposed revisions are provided below.

development and/or significant, regional rehabilitations implemented at channels and/or receiving waters. The use of an automated database system, such as GIS, is highly recommended.

The inventory must, at a minimum, include the following types of facilities:

- (1) The following municipal facilities:
 - (a) Flood management projects and flood control devices ~~and structures~~,
 - (b) Operating or closed municipal landfills,
 - (c) Publicly owned treatment works (including water and wastewater treatment plants) and sanitary sewer collection systems,
 - (d) Corporate yards, including maintenance and storage yards for materials, waste, equipment, and vehicles,
 - (e) Hazardous waste collection facilities, ~~and~~
(f) Other treatment, storage or disposal facilities for municipal waste Solid waste transfer facilities; and
~~(f)(g) Land application sites;~~
- (2) Identification ~~of if a business is a~~ mobile businesses;
- (3) ~~Identification if an area is a~~ Common Interest Areas (CIAs) / Home Owner Associations (HOAs), ~~and/or~~ mobile home parks;

The inventory must, at a minimum, include the following information for each of the facilities, as applicable:

- (1) Name, location (address and/or hydrological subarea) of each facility, area, and/or activity;
- (2) A description of the facility, area, and/or activity, including classification as municipal, commercial, industrial, or residential;
- (3) SIC and/or NAICS Code, ~~if applicable~~;
- (4) Industrial General Permit ~~NOI and/or~~ WDID number, ~~if applicable~~;
- (5) Identification of pollutants generated and/or potentially generated by the facility, area, and/or activity;

- (6) Status of facility, area, and/or activity as active or inactive;
- (7) Whether the facility, area, and/or activity is adjacent to an ESA;
- (8) Whether the facility, area, and/or activity is tributary to and within the same hydrologic subarea as a CWA section 303(d) water body segment and generates pollutants for which the water body segment is impaired;

~~(4) Whether the facility, area, and/or activity contributes or potentially contributes to the highest water quality priorities identified in the Water Quality Improvement Plan; and~~

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b. RETROFITTING AND CHANNEL REHABILITATION IN AREAS OF EXISTING DEVELOPMENT

Each Copermittee must develop and implement a program to retrofit areas of existing development to reduce the discharge of pollutants in storm water from the MS4 to the MEP and effectively prohibit non-storm water discharges into its MS4, and rehabilitate channels and/or receiving waters to restore impaired beneficial uses of streams within its jurisdiction, as feasible.

- (1) Each Copermittee must identify areas of existing development as candidates for retrofitting, and channels ~~and/or receiving waters in areas of existing development~~ as candidates for rehabilitation within its jurisdiction, as feasible. Areas of existing development must be selected based on a likelihood that retrofitting and channel rehabilitation will address the highest water quality priorities identified in the Water Quality Improvement Plan prepared pursuant to Provision B.
- (2) Each Copermittee must evaluate and rank the areas of existing development identified pursuant to Provisions E.5.a and E.5.b.(1) for retrofitting and channel rehabilitation. The evaluation must include an assessment of those areas where pollutant removal from storm water and effective prohibition of non-storm water discharges through retrofitting existing development will provide the most benefit to water quality. The evaluation must also include an assessment of the channels and/or receiving waters within its jurisdiction where ~~channel~~ rehabilitation will improve beneficial uses of streams within or immediately downstream of the Copermittee's jurisdiction. Data collected during the implementation of the Water Quality Improvement Plan must be used to inform each area assessment and rank determination.
- (3) Each Copermittee must implement/prioritize for implementation retrofit and channel rehabilitation projects that address the highest water quality priorities identified in the Water Quality Improvement Plan pursuant to Provision B.3.a. The Copermittee ~~must should~~ encourage private landowners to implement retrofit designs, at a minimum through the use of public education and outreach ~~and channel rehabilitation projects whenever practical. Private~~

~~landowners should be encouraged through the Copermittee's use of subsidies, penalties, or other incentives.~~

- (4) Each Copermittee must evaluate the flood management and flood control devices and structures in its inventory to determine if it is feasible to retrofit the device or structure, to provide additional pollutant removal from storm water. A Copermittee must consider the highest water quality priorities identified in their Water Quality Improvement Plan as part of each assessment. Evaluation of facilities can occur as a part of routine maintenance of these facilities.
- (5) Where retrofitting and channel rehabilitation within specific areas of existing development under the Copermittees jurisdiction are determined to be infeasible to restore and protect receiving waters from the highest water quality priorities identified in the Water Quality Improvement Plan, each Copermittee ~~must~~ identify, develop, and prioritize for implementation regional retrofitting and channel rehabilitation projects (i.e. projects that can receive and/or treat storm water from one or more areas of existing development and will result in a net benefit to water quality and the environment) adjacent to and/or downstream of the areas of existing development. The Copermittees may collaborate and cooperate with each other to develop regional retrofitting and channel rehabilitation projects. The Copermittees are also encouraged to partner with existing efforts in other Watershed Management Areas, and the Integrated Regional Water Management (IRWM) Groups in San Diego County, South Orange County, and Southwest Riverside County.

(6) Upon Regional Board Executive Officer approval the Copermittees may reallocate resources in the WQIPs for retrofit and rehabilitation project(s).

c. EXISTING DEVELOPMENT BMP IMPLEMENTATION AND MAINTENANCE

(1) Pollution Prevention

Each Copermittee must ~~require-promote~~ the use of pollution prevention methods by the inventoried existing development through public outreach.

(2) Designate BMPs

Each Copermittee must designate a minimum set of BMPs required for all inventoried existing development with the reasonable potential to discharge pollutant loads from their MS4, including special event venues, ~~that have the potential to generate pollutants.~~ The designated minimum BMPs must be specific to facility types and pollutant-generating activities, as appropriate.

(3) BMP Implementation

Each Copermitee must implement, or require the implementation of, designated BMPs at inventoried existing development that have the reasonable potential to generate-discharge pollutants loads into~~from~~ their MS4s. A Copermitee must require additional pollution prevention measures and enhanced BMPs at inventoried existing development that discharges pollutants identified as contributing to the highest water quality priorities in the Water Quality Improvement Plan.

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(4) BMP Operation and Maintenance

Each Copermittee must operate and maintain, or require the operation and maintenance of designated BMPs at all inventoried existing development that have been identified by the Copermittee as having the reasonable potential to discharge pollutant loads into from their MS4.

- (a) Each Copermittee must implement a schedule of operation and maintenance activities for its MS4 and related structures (including but not limited to catch basins, storm drain inlets, detention basins, etc.), and verify proper operation of all its municipal structural treatment controls designed to reduce pollutants (including floatables) in storm water discharges to or from its MS4s and related drainage structures.
- (b) Each Copermittee must implement procedures during the operation and maintenance of public streets, unpaved roads, paved roads, and paved highways and freeways, conducted under their authority and within their jurisdiction, that will reduce the contribution of storm water pollutants to the MEP and effectively prohibit the discharge of non-storm water pollutants from the MS4 to receiving water bodies. During maintenance of unpaved roads, each Copermittee must examine the feasibility of replacing existing culverts or designing new culverts/bridge crossings to maintain natural stream geomorphology.
- (c) Each Copermittee must implement controls to prevent infiltration of sewage into the MS4 from leaking sanitary sewers. Copermittees that operate both a municipal sanitary sewer system and a MS4 must implement controls and measures to prevent and eliminate seeping sewage from infiltrating the MS4. Copermittees that do not operate both a municipal sanitary sewer system and a MS4 must keep themselves informed of relevant and appropriate maintenance activities and sanitary sewage projects in their jurisdiction that may cause or contribute to seepage of sewage into the MS4.

(5) Pesticides, Herbicides, and Fertilizers BMPs

Each Copermittee must implement procedures, or require the implementation of procedures, to reduce the contribution of pollutants in storm water to the MEP and effectively prohibit non-storm water discharges associated with the application, storage, and disposal of pesticides, herbicides and fertilizers from inventoried existing development into and from the MS4s, identified by the Copermittee as having the reasonable potential to discharge pollutant loads into or from their the MS4. The Copermittee must require additional pollution prevention measures and enhanced BMPs at inventoried existing development that discharges pesticides, herbicides, or fertilizers identified as contributing to the highest water quality priorities in the Water Quality Improvement Plan. Such BMPs must include, as appropriate educational

activities, permits, certifications and other measures for applicators and distributors.

d. EXISTING DEVELOPMENT INSPECTIONS

Each Copermitttee must conduct inspections of inventoried existing development that have been identified by the Copermitttee as having the reasonable potential to discharge pollutant loads from their into the MS4 to ensure compliance with applicable local ordinances and permits, and the requirements of this Order.

(1) Inspection Frequency

- (a) Each Copermitttee must establish appropriate inspection frequencies for inventoried existing development based on the priorities set forth in the Water Quality Improvement Plan, and the potential for discharging pollutants via storm water and non-storm water ~~discharge~~ runoff. At a minimum, inventoried existing municipal, industrial, commercial, and residential-association development ~~that has been identified by the Copermitttee as having the reasonable potential to discharge pollutant loads from their MS4~~ must be inspected once during the permit term every five years. Effective self-certification or third-party inspection programs may be utilized for this purpose. Inventoried existing development must also be inspected within ~~six~~ twelve months ~~of any change in property ownership or after any redevelopment or land use change associated with a potential change increase~~ in pollutant generating activity. The frequency of inspection at inventoried existing development must be appropriate to ensure that applied BMPs are sufficient to reduce the discharge of pollutants in storm water from the MS4 to the MEP and effectively prohibit non-storm water discharges to the MS4.
- (b) Inventoried existing development must be inspected, as needed, in response to valid public complaints and findings from the Copermitttee's municipal and contract staff inspections.
- (c) Based upon inspection findings, each Copermitttee must implement all follow-up actions (i.e. re-inspection, enforcement) necessary to ensure compliance with its applicable local ordinances and permits, the most current jurisdictional runoff management program document, the Water Quality Improvement Plan, and the requirements of this Order.

(2) Inspection Content

Inspections of existing development by the Copermitttee must include, at a minimum:

- (a) Assessment of compliance with its applicable local ordinances and

permits related to non-storm water and storm water discharges and runoff;

- (b) Assessment of the implementation, maintenance and effectiveness of the designated minimum and/or enhanced BMPs;
- (c) Verification of coverage under the Industrial General Permit (NOI and/or WDID number), when applicable;
- (d) Visual observations of actual non-storm water discharges, if present;
- (e) Visual observations of actual or potential discharge of pollutants, if present;
- (f) Visual observations of actual or potential illicit connections if present; and
- (g) If any violations are found and BMP enhancements are needed, inspectors must take and document appropriate actions in accordance with the Enforcement Response Plan pursuant to Provision E.6.

(3) Inspection Tracking and Records

Each Copermittee must track all inspections and re-inspections at all inventoried existing development. The Copermittee must retain all inspection records in an electronic database or tabular format, which must be made available to the San Diego Water Board upon request. Inspection records must be sufficiently detailed in order to determine compliance with the requirements of this Order and any progress made towards addressing the highest water quality priorities identified in the Water Quality Improvement Plan. Inspection records must include, at a minimum:

- (a) Existing development name and location (address and hydrologic subarea);
- (b) Inspection and re-inspection date(s);
- (c) Weather conditions during inspection;
- (d) Description and photo documentation of problems observed with BMPs and indication of need for BMP addition/repair/replacement and any scheduled re-inspection, and date of re-inspection;
- (e) Verification of compliance with designated BMPs, as applicable ~~Description of actions to reduce pollutants in storm water runoff to the MEP and actions to effectively prohibit non-storm discharges into the MS4 at the inventoried existing development;~~
- (f) ~~Photo documentation of observed actions or BMPs to reduce pollutants in storm water runoff to the MEP and actions to effectively prohibit non-storm~~

discharges into the storm drain;

~~If the facility, area, and/or activity has been designated or identified as a contributor to the highest water quality priorities identified in the Water Quality Improvement Plan, then the inspection report must include a description of any specific or additional actions taken to reduce or eliminate the contribution of the facility, area, and/or activity to the highest water quality priorities;~~

~~(g)~~(f) Descriptions of any other specific inspection comments which must, at a minimum, include rationales for longer compliance time;

~~(h)~~(g) Description of enforcement actions issued in accordance with the Enforcement Response Plan pursuant to Provision E.6; and

~~(i)~~(h) Resolution of problems noted and date problems fixed.

e. EXISTING DEVELOPMENT ENFORCEMENT

Each Copermitttee must enforce its legal authority established pursuant to Provision E.1 for all its inventoried existing development identified by the Copermitttees as having the reasonable potential to discharge pollutant loads from the MS4 within their jurisdiction, as necessary, to achieve compliance with the requirements of this Order, in accordance with its Enforcement Response Plan pursuant to Provision E.6.

6. Enforcement Response Plans

Each Copermitttee must develop and implement an Enforcement Response Plan as part of its jurisdictional runoff management program document. The Enforcement Response Plan must include the protocols for progressively stricter responses, including timeframes allowed for corrections of problems, and for various field violation scenarios. Copermitttees may continue to utilize and implement established, equivalent guidelines and procedures for enforcement. The Enforcement Response Plan must include, at a minimum, the following requirements:

Comment [A4]: The OC Copermitttees are offering alternative language for this section – see attachment for Enforcement Response Plans
In lieu of the alternative language – the proposed revisions are provided below.

a. ILLICIT DISCHARGE DETECTION AND ELIMINATION ENFORCEMENT COMPONENT

The Enforcement Response Plan must describe required enforcement actions to eliminate non-storm water discharges and illicit discharges or connections to the Copermitttee's MS4.

- (1) The Enforcement Response Plan must include a definition of "high level enforcement" for non-storm water discharges and illicit discharges or connections. "High level enforcement" for non-storm water discharges and illicit discharges or connections may be defined differently for construction

PROVISION E: JURISDICTIONAL RUNOFF MANAGEMENT PROGRAMS
E.5. Existing Development Management
E.6. Enforcement Response Plans

sites, municipal, commercial, industrial, and residential areas of existing development.

(2) Non-storm water discharges and illicit discharges or connections must be addressed with an escalating series of enforcement actions as follows:

(a) If the non-storm water discharge ~~or~~ illicit discharge or connection is a source of pollutants contributing to the highest water quality priorities identified in the Water Quality Improvement Plan, then ~~high level~~ enforcement actions must ~~begin at a high level immediately issued~~, and subsequent high level enforcement actions must continue to escalate, as necessary, to compel the elimination of the discharge or connection as soon as possible; or

(b) If the non-storm water discharge and illicit discharge or connection is not a source of pollutants contributing to the highest water quality priorities identified in the Water Quality Improvement Plan, then escalating enforcement actions must be issued, and enforcement actions must result in the elimination of the discharge or connection as quickly as the Copermittee's available resources allow.

(3) If the Copermittee identifies the source, and the source is a controllable non-storm water discharge (i.e. anthropogenically influenced) or a controllable illicit discharge or connection, then the Copermittee must implement the following:

(a) Immediately enforce its legal authority, or notify the entity with applicable legal authority, to eliminate controllable sources of non-storm water and illicit discharges or connections upon identifying the source; and

(b) For controllable sources of non-storm water discharges and illicit discharges or connections that cannot be eliminated immediately upon identification, the discharge or connection must be eliminated in a timely manner with the goal of eliminating the discharge or connection within 10 business days after the source is identified. If more than 10 business days are required to eliminate the discharge or connection, a rationale must be recorded in the electronic database or equivalent tabular system used to track the investigations of non-storm water and illicit discharges and connections.

(4) If the Copermittee identifies the source as a non-storm water discharge to or from the MS4 that is in exceedance of NALs developed pursuant to Provision C.1, and in violation or threatened violation of an existing separate NPDES permit (e.g. the groundwater dewatering NPDES permit), then the Copermittee must report, within three business days, the findings to the San Diego Water Board including all pertinent information regarding the

discharger and discharge characteristics.

b. DEVELOPMENT PROJECTS ENFORCEMENT COMPONENT

The Enforcement Response Plan must describe required enforcement actions to compel compliance with the Copermittee's BMP Design Manual requirements for development projects.

- (1) The Enforcement Response Plan must include a definition of "high level enforcement" for development projects.
- (2) The enforcement process must include appropriate sanctions to compel compliance with requirements of the Copermittee's BMP Design Manual or this Order. Sanctions must include, at a minimum, the following tools or their equivalent:
 - (a) Non-monetary penalties;
 - (b) Fines;
 - (c) Bonding requirements;
 - (d) Administrative and criminal penalties;
 - (e) Liens; and
 - (f) Permit or occupancy denials.
- (3) Occupancy must be denied until a development project is in full compliance with the Copermittee's BMP Design Manual requirements. Documentation of full compliance with the Copermittee's BMP Design Manual requirements must be recorded in the electronic database or equivalent tabular system used to track development projects.
- (4) Violations or other non-compliance that contribute or potentially contribute to the highest water quality priorities identified in the Water Quality Improvement Plan must be issued high level enforcement actions. High level enforcement actions must continue to escalate, as necessary, to compel compliance as soon as possible.
- (5) For violations of ~~permanent-treatment control and structural LID~~ BMP maintenance requirements, all violations must be corrected in a timely manner with the goal of correcting them before the next rain event but no longer than ~~340 business-calendar~~ days after the violations are discovered. If more than ~~340 business-calendar~~ days are required for compliance, a rationale must be recorded in the electronic database or equivalent tabular system used to track ~~treatment control and structural LID permanent~~BMP

inspections.

c. CONSTRUCTION / EXISTING DEVELOPMENT ENFORCEMENT COMPONENT

The Enforcement Response Plan must describe required enforcement actions to compel compliance with its permits and applicable local ordinances, and the requirements of this Order, at construction sites and areas of existing development.

- (1) The Enforcement Response Plan must include a definition of “high level enforcement” for construction sites and areas of existing development. “High level enforcement” may be defined differently for construction sites, municipal, commercial, industrial, and residential areas of existing development.
- (2) The enforcement process must include, at a minimum, appropriate sanctions to compel compliance, such as:
 - (a) Verbal and written notices of violation;
 - (b) Cleanup requirements;
 - (c) Fines;
 - (d) Bonding requirements;
 - (e) Administrative and criminal (if intentional or negligent) penalties;
 - (f) Liens;
 - (g) Stop work orders; and
 - (h) Permit and occupancy denials.
- (3) Violations or other non-compliance that contribute or potentially contribute to the highest water quality priorities identified in the Water Quality Improvement Plan must be issued high level enforcement actions. High level enforcement actions must continue to escalate, as necessary, to compel compliance as soon as possible.
- (4) All violations must be corrected in a timely manner with the goal of correcting them before the next rain event but no longer than 340 business-calendar days after the violations are discovered. If more than 340 calendarbusiness days are required for compliance, then a rationale must be recorded in the electronic database or equivalent tabular system used to track construction site and existing development inspections.

d. REPORTING OF NON-COMPLIANT SITES

- (1) Each Copermitee must notify the San Diego Water Board in writing within 48 hours of issuing high level enforcement (as defined in the Copermitee's Enforcement Response Plan) to a construction site that significantly impacts ~~poses a significant threat to~~ water quality as a result of violations or other non-compliance with its permits and applicable local ordinances, and the requirements of this Order. Written notification may be provided electronically in email form.
- (2) Each Copermitee must notify the San Diego Water Board of non-filers under the Industrial General Permit and Construction General Permit by email to Nonfilers_R9@waterboards.ca.gov.

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7. Public Education and Participation

- a. Each Copermittee must implement a public education and participation program, as appropriate, to promote and encourage the development of programs, management practices, control techniques and systems, design and engineering methods, and behaviors that reduce the discharge of pollutants in storm water to the MEP, prevent controllable non-storm water discharges from entering the MS4, and protect water quality standards in receiving waters. The public education program must include, at a minimum, the following:
- (1) Educational activities, public information activities, and other appropriate outreach activities intended to reduce the pollutants of concern associated with ~~the application of pesticides, herbicides and fertilizer in~~ storm water discharges ~~to and~~ from its MS4 to the MEP. Activities shall be determined and prioritized by the Copermittees by jurisdiction and/or watershed to address the highest water quality issues of concern identified within the corresponding WQIP(s);
 - ~~(2) Educational activities, public information activities, and other appropriate outreach activities to facilitate the proper management and disposal of used oil and toxic materials; and~~
 - ~~(3)~~(2) Appropriate education and training measures for specific construction site operators and other target audiences, as determined and prioritized by the Copermittee(s) by jurisdiction and/or watershed to address the highest water quality issues of concern identified within the corresponding WQIP(s).
- b. Each Copermittee must incorporate a mechanism for public participation and where necessary intergovernmental coordination in updating, developing, and implementing its jurisdictional runoff management program.

8. Fiscal Analysis

- a. Each Copermittee must secure the resources necessary to meet all the requirements of this Order.
- b. Each Copermittee must conduct an annual fiscal analysis of the ir jurisdictional runoff management programs, following:
- The Copermittees must identify the various categories of expenditures necessary to implement the requirements of this Order, including a description of the specific items to be accounted for in each category of expenditures. For each category of expenditures, the fiscal analysis must include the following:
- (1) The capital and operation and maintenance expenditures necessary to implement the requirements of this Order;
 - ~~(2) The staff resources needed and allocated to meet the requirements of this~~

~~Order, including any development, implementation, and enforcement activities required;~~

~~(3)(2)~~ The estimated expenditures ~~for Provisions E.8.b.(1) and E.8.b.(1)(2)~~ during the reporting period; ~~the preceding reporting period,~~ and the next reporting period; and

~~(4)(3)~~ The source(s) of funds that are proposed to meet the necessary expenditures ~~described in Provisions E.8.b.(1) and E.8.b.(1)(2),~~ including legal restrictions on the use of such funds.

- c. Each Copermittee must submit a summary of the annual fiscal analysis with each Annual Report required pursuant to Provision [F.3.b](#).
- d. Each Copermittee must provide the documentation used to develop the summary of the annual fiscal analysis upon request by the San Diego Water Board.

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F. REPORTING

The purpose of this provision is to determine and document compliance with the requirements set forth in this Order. The goal of this provision is to communicate to the San Diego Water Board and the people of the State of California the implementation status of each jurisdictional runoff management program and compliance with the requirements of this Order. This goal is to be accomplished through the submittal of specific deliverables to the San Diego Water Board by the Copermittees.

1. Water Quality Improvement Plans

The Copermittees for each Watershed Management Area must develop and submit a complete Water Quality Improvement Plan in accordance with the requirements of Provision B, no later than ~~18~~2 months after the adoption of , or enrollment under this Order for a 30 day public review and comment period. The San Diego Water Board will issue a public notice and solicit public comments on the Water Quality Improvement Plan for a minimum of 30 days. Based on the comments received, the San Diego Water Board will determine whether to hold a public hearing or to limit public input to submittal of written comments. If no hearing is held the San Diego Water Board will notify the Copermittees that the Water Quality Improvement Plan has been accepted as complete following its review and determination that the Water Quality Improvement Plan meets the requirements of this Order. The San Diego Water Board shall notify the Copermittees within six (6) months of the submittal date. Water Quality Improvement Plans must be made available ~~as on the Regional Clearinghouse~~ required pursuant to Provision F.4.

2. Updates

a. JURISDICTIONAL RUNOFF MANAGEMENT PROGRAM DOCUMENT UPDATES

Each Copermittee must update its jurisdictional runoff management program document to incorporate the requirements of Provision E. The update must be completed no later than ~~18~~2 months after the adoption of , or enrollment under, this Order. Updated jurisdictional runoff management program documents must be made available ~~as on the Regional Clearinghouse~~ required pursuant to Provision F.4. Subsequent updates may be submitted as part of the Annual Reports, and updated jurisdictional runoff management program documents must be made available ~~on the Regional Clearinghouse~~ as required pursuant to Provision F.4.

Jurisdictional Runoff Management Program document updates that modify program elements from the requirements of Provision E must provide rationale for the modifications within the update documents.

b. ~~PERMANENT TREATMENT CONTROL/STRUCTURAL LID~~ BMP SIZING CRITERIA DESIGN MANUAL UPDATES

Each Copermittee must update its BMP Design Manual to incorporate the

PROVISION F: REPORTING
F.1. Water Quality Improvement Plans
F.2. Updates

requirements of Provision E.3.d, as needed. The update must be completed no later than 182 months after the adoption of, or enrollment under, this Order. Updated BMP Design Manuals must be made available as on the Regional Clearinghouse required pursuant to Provision F.4. Subsequent updates may be submitted as part of the Annual Reports. Updated BMP Design Manuals must be made available as required pursuant to Provision F.4 on the Regional Clearinghouse.

BMP Design Manual updates that modify program elements from the requirements of Provision E must provide rationale for the modifications within the update documents.

C. WATER QUALITY IMPROVEMENT PLAN UPDATES

The Copermittees for each Watershed Management Area must submit updates to the Water Quality Improvement Plan as part of the Annual Reports. Updated Water Quality Improvement Plans must be made available as on the Regional Clearinghouse required pursuant to Provision F.4.

Water Quality Improvement Plan updates that modify program elements from the requirements of Provision E must provide rationale for the modifications within the update documents.

3. Progress Reporting

a. PROGRESS REPORT PRESENTATIONS

The Copermittees for each Watershed Management Area must appear before the San Diego Water Board, as requested by the San Diego Water Board, to provide progress reports on the implementation of the Water Quality Improvement Plan and jurisdictional runoff management programs.

b. ANNUAL REPORTS

(1) The Copermittees for each Watershed Management Area must submit an Annual Report for each reporting period, which begins July 1 and ends June 30 in the following year, no later than October 31 following the end of the reporting period. The first Annual Report must be prepared for the reporting period beginning July 1 after adoption of the permit, and upon San Diego Water Board's determination that from the date the San Diego Water Board determines that the Water Quality Improvement Plan meets the requirements of this Order to June 30 in the following year. Annual Reports must be made available on the Regional Clearinghouse as required pursuant to Provision F.4. Each Annual Report must include the following:

- (a) The jurisdictional and watershed monitoring data collected pursuant to Provisions D.1 and D.2, summarized and presented in tabular and

PROVISION F: REPORTING
F.2. Updates
F.3. Progress Reporting

graphical form;

- (b) Progress of the special studies required pursuant to Provisions [D.2](#) and [D.3](#), and the results or findings when a special study, or each phase of a special study, is completed;
 - (c) The findings from the assessments required pursuant to Provision [D.4](#);
 - (d) The progress of implementing the Water Quality Improvement Plan, including, but not limited to, the following:
 - (i) The progress toward achieving the interim and final numeric ~~targets~~ [goals](#) for the highest water quality priorities for the Watershed Management Area,
 - (ii) The water quality improvement strategies that were implemented and/or no longer implemented by each of the Copermittees during the reporting period and previous reporting periods, and are planned to be implemented during the next reporting period,
 - (iii) Previously proposed modifications or updates incorporated into the Water Quality Improvement Plan and/or each Copermittee's jurisdictional runoff management program document and implemented by the Copermittees in the Watershed Management Area, and
 - (iv) Proposed modifications or updates to the Water Quality Improvement Plan and/or each Copermittee's jurisdictional runoff management program document;
 - (e) A completed Jurisdictional Runoff Management Program Annual Report Form ([Attachment D](#)) for each Copermittee in the Watershed Management Area, certified by a Principal Executive Officer, Ranking Elected Official, or Duly Authorized Representative.
- (2) Each Copermittee must complete and submit a Jurisdictional Runoff Management Program Annual Report Form ([Attachment D](#)) no later than October 31 of each year until the first Annual Report is required to be submitted.
- (3) Each Copermittee must provide any data or documentation utilized in developing the Annual Report upon request by the San Diego Water Board. Any monitoring data utilized in developing the Annual Report must be uploaded to the California Environmental Data Exchange Network

(CEDEN).²³ Any monitoring and assessment data utilized in developing the Annual Report must be provided ~~as on the Regional Clearinghouse~~ required pursuant to Provision F.4.

c. REGIONAL MONITORING AND ASSESSMENT REPORT

- (1) The Copermittees must submit a Regional Monitoring and Assessment Report no later than 180 days in advance of the expiration date of this Order. The Regional Monitoring and Assessment Report may be submitted as part of the ROWD required pursuant to Provision F.5.b. The Copermittees must review the jurisdictional and watershed monitoring data, data analyses, and assessments required pursuant to Provision D.4, to assess the following:
 - (a) The beneficial uses of the receiving waters within the San Diego Region that are protected or must be restored;

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²³ Data must be uploaded to CEDEN Southern California Regional Data Center (<http://www.sccwrp.org/Data/DataSubmission/SouthernCaliforniaRegionalDataCenter.aspx>) using the templates provided on the CEDEN website.

(b) The progress toward restoring impacted beneficial uses in the receiving waters within the San Diego Region; and

(c) Pollutants or conditions of emerging concern that may impact beneficial uses in the receiving waters within the San Diego Region.

(2) The Regional Monitoring and Assessment Report must include recommendations for improving the implementation and assessment of the Water Quality Improvement Plans and jurisdictional runoff management programs, where feasible.

(3) Each Copermitee must provide any data or documentation utilized in developing the Regional Monitoring and Assessment Report upon request by the San Diego Water Board. Any monitoring and assessment data utilized in developing the Regional Monitoring and Assessment Report must be provided as on the Regional Clearinghouse required pursuant to Provision F.4.

4. Regional Clearinghouse Mechanism for Data and Information Sharing²⁴

The Copermitees must identify and implement a mechanism to develop, update, and maintain an internet-based Regional Clearinghouse that can be used to store, disseminate, and share the Copermitees' Water Quality Improvement Plans, Annual Reports, jurisdictional runoff management program documents, monitoring data, special studies, and any other pertinent data or information generated by the Copermitees during the implementation of this Order. Monitoring data collected pursuant to Provision D must be uploaded to CEDEN,²⁵ with links to the uploaded data available on the Regional Clearinghouse. The Regional Clearinghouse may be linked to other internet-based data portals and databases where the original documents and data are stored. The Regional Clearinghouse Copermitees must make this information be available and accessible to members of the public. The Regional Clearinghouse mechanism for sharing Copermitee data and information must be developed and made available to the public no later than 182 months after the adoption of this Order.

5. Report of Waste Discharge

a. The Orange County Copermitees and the Riverside County Copermitees, are required to submit a complete ROWD pursuant to the requirements of their

²⁴ The Copermitees may elect to develop and maintain the clearinghouse(s) provided by other Copermitees or agencies.

²⁵ Data must be uploaded to CEDEN Southern California Regional Data Center (<http://www.sccwrp.org/Data/DataSubmission/SouthernCaliforniaRegionalDataCenter.aspx>) using the templates provided on the CEDEN website.

PROVISION F: REPORTING

F.3. Progress Reporting

F.4. Mechanism for Data and Information Sharing Regional Clearinghouse

F.5. Report of Waste Discharge

current Orders and are enrolled under this Order upon expiration of their current Orders. Upon expiration of their current Orders, the Copermittees in each county must comply with the requirements of this Order by July 1 after enrollment under this Order, unless early enrollment is granted pursuant to Provision F.6 of this Order. The current Orders for the Orange County Copermittees and Riverside County Copermittees are rescinded upon their expiration date except for enforcement purposes.

- b. The Copermittees must submit to the San Diego Water Board a complete ROWD as an application for the re-issuance of this NPDES permit. The ROWD must be submitted no later than 180 days in advance of the expiration date of this Order. The Copermittees may elect to develop and submit the ROWD individually or collaboratively. The ROWD must contain the following minimum information:

- (1) Names and addresses of the Copermittees;
- (2) Names and titles of the primary contacts of the Copermittees;
- (3) Proposed changes to the Copermittees' Water Quality Improvement Plans and the supporting justification;
- (4) Proposed changes to the Copermittees' jurisdictional runoff management programs and the supporting justification;
- (5) Any other information necessary for the re-issuance of this Order; and
- (6) Any other information required by federal regulations for NPDES permit reissuance.

6. Application for Early Enrollment

- a. The Orange County Copermittees, collectively, or Riverside County Copermittees, collectively, may apply for early enrollment under this Order by submitting a [Report of Waste Discharge Form 200](#) for each individual Copermittee in the respective county, with a written request for early enrollment under this Order that certifies the following conditions have been met:
- (1) A Water Quality Improvement Plan has been developed in accordance with the requirements of Provision B, which can and will be implemented immediately upon enrollment under this Order;
 - (2) Each Copermittee in the county has updated its jurisdictional runoff management program document to incorporate the requirements of Provision E, which can and will be implemented immediately upon enrollment under this Order; and

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- (3) Each Copermittee in the county has updated its BMP Design Manual to incorporate the requirements of Provision [E.3.d](#), which can and will be implemented immediately upon enrollment under this Order.

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- b. The San Diego Water Board will review the application for early enrollment and associated documents for completeness. A Notice of Enrollment (NOE) under this Order will be issued to the Copermittees in the respective county by the San Diego Water Board upon completion of the early enrollment application requirements. The effective enrollment date will be specified in the NOE and the Copermittees in the respective county are authorized to have MS4 discharges pursuant to the requirements of this Order starting on the date specified in the NOE. The existing Order for that county is rescinded upon the effective enrollment date specified in the NOE except for enforcement purposes.

7. Reporting Provisions

Each Copermittee must comply with all the reporting and recordkeeping provisions of the Standard Permit Provisions and General Provisions contained in [Attachment B](#) to this Order.

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G. PRINCIPAL WATERSHED COPERMITTEE RESPONSIBILITIES

1. The Copermittees within each Watershed Management Area must designate a Principal Watershed Copermittee and notify the San Diego Water Board of the name of the Principal Watershed Copermittee. ~~An individual Copermittee should not be designated a Principal Watershed Copermittee for more than two Watershed Management Areas.~~—The notification may be submitted with the Water Quality Improvement Plan required pursuant to Provision [F.1](#) of this Order.
2. The Principal Watershed Copermittee is responsible for, at a minimum, the following:
 - a. Serving as liaison between the Copermittees in the Watershed Management Area and the San Diego Water Board on general permit issues, and when necessary and appropriate, representing the Copermittees in the Watershed Management Area before the San Diego Water Board.
 - b. Facilitating the development of the Water Quality Improvement Plan in accordance with the requirements of Provision [B](#) of this Order
 - c. Coordinating the submittal of the deliverables required by Provisions [F.1](#), [F.2](#), [F.3.a](#), and [F.3.b](#) of this Order.
 - d. Coordinating and developing, with the other ~~Principal Watershed~~ Copermittees, the requirements of Provisions [F.3.c](#), [F.4](#), and [F.5.b](#) of this Order.

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H. MODIFICATION OF PROGRAMS

1. Modifications of the Order may be initiated by the San Diego Water Board or by the Copermitees. Requests by Copermitees must be made to the San Diego Water Board.
2. Minor modifications to the Order may be made by the San Diego Water Board where the proposed modification complies with all the prohibitions and limitations, and other requirements of this Order.
3. Proposed modifications outside of the WQIP process that are not minor require amendment of this Order in accordance with this Order's rules, policies, and procedures.

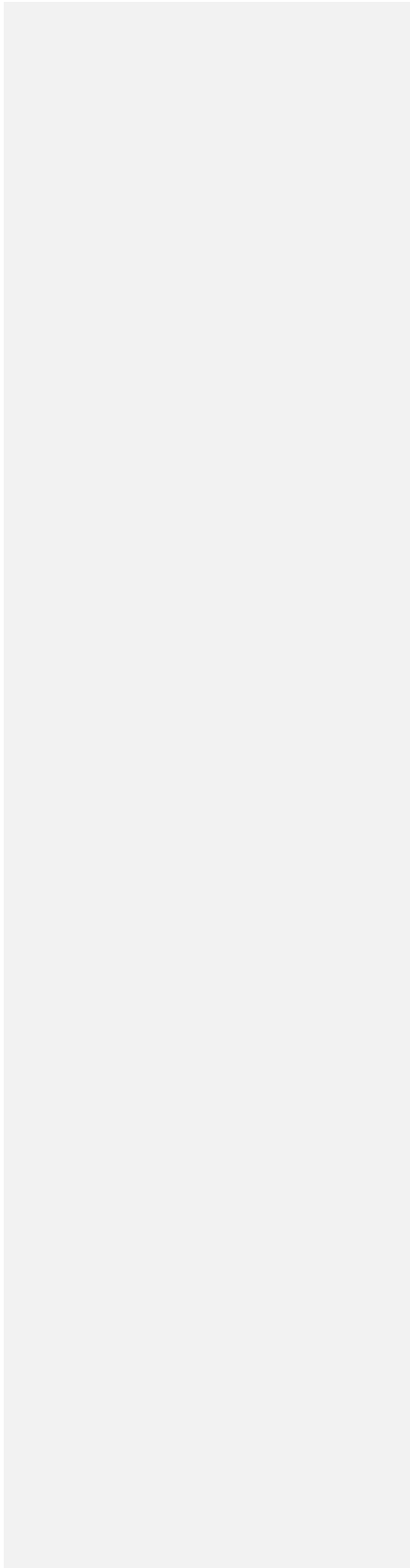
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I. STANDARD PERMIT PROVISIONS AND GENERAL PROVISIONS

Each Copermittee must comply with all the Standard Permit Provisions and General Provisions contained in [Attachment B](#) to this Order.

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ADMINISTRATIVE DRAFT**ATTACHMENT A****DISCHARGE PROHIBITIONS****1. Basin Plan Waste Discharge Prohibitions**

California Water Code Section 13243 provides that a Regional Water Board, in a water quality control plan, may specify certain conditions or areas where the discharge of waste or certain types of waste is not permitted. The following waste discharge prohibitions in the Water Quality Control Plan for the San Diego Basin (Basin Plan) are applicable to any person, as defined by Section 13050(c) of the California Water Code, who is a citizen, domiciliary, or political agency or entity of California whose activities in California could affect the quality of waters of the state within the boundaries of the San Diego Region.

1. The discharge of waste to waters of the state in a manner causing, or threatening to cause a condition of pollution, contamination or nuisance as defined in California Water Code Section 13050, is prohibited.
2. The discharge of waste to land, except as authorized by waste discharge requirements or the terms described in California Water Code Section 13264 is prohibited.
3. The discharge of pollutants or dredged or fill material to waters of the United States except as authorized by a National Pollutant Discharge Elimination System (NPDES) permit or a dredged or fill material permit (subject to the exemption described in California Water Code Section 13376) is prohibited.
4. Discharges of recycled water to lakes or reservoirs used for municipal water supply or to inland surface water tributaries thereto are prohibited, unless this San Diego Water Board issues a NPDES permit authorizing such a discharge; the proposed discharge has been approved by the State Department of Health Services (DHS) and the operating agency of the impacted reservoir; and the discharger has an approved fail-safe long-term disposal alternative.
5. The discharge of waste to inland surface waters, except in cases where the quality of the discharge complies with applicable receiving water quality objectives, is prohibited. Allowances for dilution may be made at the discretion of the San Diego Water Board. Consideration would include streamflow data, the degree of treatment provided and safety measures to ensure reliability of facility performance. As an example, discharge of secondary effluent would probably be permitted if streamflow provided 100:1 dilution capability.
6. The discharge of waste in a manner causing flow, ponding, or surfacing on lands not owned or under the control of the discharger is prohibited, unless the discharge is authorized by the San Diego Water Board.

ADMINISTRATIVE DRAFT

7. The dumping, deposition, or discharge of waste directly into waters of the state, or adjacent to such waters in any manner which may permit its being transported into the waters, is prohibited unless authorized by the San Diego Water Board.
8. Any discharge to a storm water conveyance system that is not composed entirely of "*storm water*" is prohibited unless authorized by the San Diego Water Board. [The federal regulations, 40 CFR 122.26(b)(13), define storm water as storm water runoff, snow melt runoff, and surface runoff and drainage. 40 CFR 122.26(b)(2) defines an illicit discharge as any discharge to a storm water conveyance system that is not composed entirely of storm water except discharges pursuant to a NPDES permit and discharges resulting from fire fighting activities.] [§122.26 amended at 56 FR 56553, November 5, 1991; 57 FR 11412, April 2, 1992].
9. The unauthorized discharge of treated or untreated sewage to waters of the state or to a storm water conveyance system is prohibited.
10. The discharge of industrial wastes to conventional septic tank/subsurface disposal systems, except as authorized by the terms described in California Water Code Section 13264, is prohibited.
11. The discharge of radioactive wastes amenable to alternative methods of disposal into the waters of the state is prohibited.
12. The discharge of any radiological, chemical, or biological warfare agent into waters of the state is prohibited.
13. The discharge of waste into a natural or excavated site below historic water levels is prohibited unless the discharge is authorized by the San Diego Water Board.
14. The discharge of sand, silt, clay, or other earthen materials from any activity, including land grading and construction, in quantities which cause deleterious bottom deposits, turbidity or discoloration in waters of the state or which unreasonably affect, or threaten to affect, beneficial uses of such waters is prohibited.
15. The discharge of treated or untreated sewage from vessels to Mission Bay, Oceanside Harbor, Dana Point Harbor, or other small boat harbors is prohibited.
16. The discharge of untreated sewage from vessels to San Diego Bay is prohibited.
17. The discharge of treated sewage from vessels to portions of San Diego Bay that are less than 30 feet deep at mean lower low water (MLLW) is prohibited.
18. The discharge of treated sewage from vessels, which do not have a properly functioning US Coast Guard certified Type I or Type II marine sanitation device, to portions of San Diego Bay that are greater than 30 feet deep at mean lower low water (MLLW) is prohibited.

ADMINISTRATIVE DRAFT**2. Attachment B to State Water Board Resolution 2012-~~001X~~-0012**

Copermittees that discharge into Areas of Special Biological Significance must comply with State Water Board Resolution No. 2012-0012.

Special Protections for Areas of Special Biological Significance, Governing Point Source Discharges of Storm Water and Nonpoint Source Waste Discharges**I. PROVISIONS FOR POINT SOURCE DISCHARGES OF STORM WATER AND NONPOINT SOURCE WASTE DISCHARGES**

~~The following terms, prohibitions, and special conditions (hereafter collectively referred to as special conditions) are established as limitations on point source storm water and nonpoint source discharges. These special conditions provide Special Protections for marine aquatic life and natural water quality in Areas of Special Biological Significance (ASBS), as required for State Water Quality Protection Areas pursuant to California Public Resources Code Sections 36700(f) and 36710(f). These Special Protections are adopted by the State Water Board as part of the California Ocean Plan (Ocean Plan) General Exception.~~

~~The special conditions are organized by category of discharge. The State Water Resources Control Board (State Water Board) and Regional Water Quality Control Boards (Regional Water Boards) will determine categories and the means of regulation for those categories [e.g., Point Source Storm Water National Pollutant Discharge Elimination System (NPDES) or Nonpoint Source].~~

A. PERMITTED POINT SOURCE DISCHARGES OF STORM WATER**1. General Provisions for Permitted Point Source Discharges of Storm Water**

~~a. Existing storm water discharges into an ASBS are allowed only under the following conditions:~~

~~(1) The discharges are authorized by an NPDES permit issued by the State Water Board or Regional Water Board;~~

~~(2) The discharges comply with all of the applicable terms, prohibitions, and special conditions contained in these Special Protections; and~~

~~(3) The discharges:~~

~~(i) Are essential for flood control or slope stability, including roof, landscape, road, and parking lot drainage;~~

~~(ii) Are designed to prevent soil erosion;~~

~~(iii) Occur only during wet weather;~~

~~(iv) Are composed of only storm water runoff.~~

~~b. Discharges composed of storm water runoff shall not alter natural ocean water quality in an ASBS.~~

ADMINISTRATIVE DRAFT

~~e.—The discharge of trash is prohibited. Minimize the discharge of trash to the maximum extent practicable over the course of the permit term.~~

~~d.—Only discharges from existing storm water outfalls are allowed. Any proposed or new storm water runoff discharge shall be routed to existing storm water discharge outfalls and shall not result in any new contribution of waste to an ASBS (i.e., no additional pollutant loading). “Existing storm water outfalls” are those that were constructed or under construction prior to January 1, 2005. “New contribution of waste” is defined as any addition of waste beyond what would have occurred as of January 1, 2005. A change to an existing storm water outfall, in terms of re-location or alteration, in order to comply with these special conditions, is allowed and does not constitute a new discharge.~~

~~e. Non-storm water discharges are prohibited except as provided below:~~

~~(1) The term “non-storm water discharges” means any waste discharges from a municipal separate storm sewer system (MS4) or other NPDES permitted storm drain system to an ASBS that are not composed entirely of storm water.~~

~~(2) The following non-storm water discharges are allowed, provided that the discharges are essential for emergency response purposes, structural stability, slope stability or occur naturally:~~

~~(i) Discharges associated with emergency fire fighting operations.~~

~~(ii) Foundation and footing drains.~~

~~(iii) Water from crawl space or basement pumps.~~

~~(iv) Hillside dewatering.~~

~~(v) Naturally occurring groundwater seepage via a storm drain.~~

~~(vi) Non-anthropogenic flows from a naturally occurring stream via a culvert or storm drain, as long as there are no contributions of anthropogenic runoff.~~

~~— Rising ground waters.~~

~~— Springs.~~

~~— Flows from riparian habitats and wetlands.~~

~~— Discharges from potable water sources.~~

~~— Uncontaminated pumped groundwater.~~

~~— Water line flushing.~~

~~— Water main breaks.~~

~~(3) Authorized non-storm water discharges shall not have a reasonable potential to cause or contribute to a violation of the water quality objectives in Chapter II of the Ocean Plan nor alter natural ocean water quality in an ASBS.~~

~~2.—Compliance Plans for Inclusion in Storm Water Management Plans (SWMP) and Storm Water Pollution Prevention Plans (SWPPP).~~

ADMINISTRATIVE DRAFT

~~The discharger shall specifically address the prohibition of non storm water runoff and the goal of requirement to maintaining natural water quality for storm water discharges to an ASBS in an ASBS Compliance Plan to be included in its SWMP or a SWPPP, as appropriate to permit type. If a statewide permit includes a SWMP, then the discharger shall prepare a stand alone compliance plan for ASBS discharges. The ASBS Compliance Plan is subject to approval by the Executive Director of the State Water Board (statewide permits) or Executive Officer of the Regional Water Board (for permits issued by Regional Water Boards).~~

- ~~a. The Compliance Plan shall include a map of surface drainage of storm water runoff, showing areas of sheet runoff, prioritize discharges, and describe any structural Best Management Practices (BMPs) already employed and/or BMPs to be employed in the future. Priority discharges are those that pose the greatest water quality threat and which are identified to require installation of structural, non structural, and/or source BMPs, as feasible. The map shall also show the storm water conveyances in relation to other features such as service areas, sewage conveyances and treatment facilities, landslides, areas prone to erosion, and waste and hazardous material storage areas, if applicable. The SWMP or SWPPP shall also include a procedure for updating the map and plan when changes are made to the storm water conveyance facilities.~~
- ~~b. The ASBS Compliance Plan shall describe the measures by which all non authorized non storm water runoff (e.g., dry weather flows) has been reduced and/or prevented/eliminated, how these measures will be maintained over time, and how these measures are monitored and documented.~~
- ~~c. For Municipal Separate Storm Sewer System (MS4s), the ASBS Compliance Plan shall require minimum inspection frequencies as follows:~~
- ~~(1) The minimum inspection frequency for construction sites shall be weekly during rainy season;~~
 - ~~(2) The minimum inspection frequency for industrial facilities shall be monthly during the rainy season;~~
 - ~~(3) The minimum inspection frequency for commercial facilities (e.g., restaurants) shall be twice during the rainy season; and~~
 - ~~(4) Storm water outfall drains equal to or greater than 18 inches (457 mm) in diameter or width shall be inspected once prior to the beginning of the rainy season and once during the rainy season and maintained to remove trash and other anthropogenic debris.~~
- ~~d. The ASBS Compliance Plan shall address storm water discharges (wet weather flows) and, in particular, describe how pollutant reductions in storm water runoff, that are necessary to comply with these special conditions, will be achieved through BMPs. Structural, non structural, and/or source control BMPs need not be installed if the discharger can document to the satisfaction of the State Water Board Executive Director (statewide permits) or Regional Water Board Executive Officer (Regional Water Board permits) that such installation would pose a threat to health or safety. BMPs to control storm water runoff discharges (at the end of pipe) during a design storm shall be~~

ADMINISTRATIVE DRAFT

~~designed to the maximum extent practicable, achieve on average the following target levels:~~

- ~~(1) Table B Instantaneous Maximum Water Quality Objectives in Chapter II of the Ocean Plan; or~~
 - ~~(2) A 90% reduction in pollutant loading during storm events, for the applicant's total discharges. The baseline for the reduction is the effective date of the Exception. The baseline for these determinations is the effective date of the Exception, and the reductions must be achieved and documented within four (4) years of the effective date.~~
- ~~e. The ASBS Compliance Plan shall address erosion control and the prevention of anthropogenic sedimentation in ASBS. The natural habitat conditions in the ASBS shall not be altered as a result of anthropogenic sedimentation.~~
- ~~f. The ASBS Compliance Plan shall describe the non-structural BMPs currently employed and planned in the future (including those for construction activities), and include an implementation schedule. The ASBS Compliance Plan shall include non-structural BMPs that address public education and outreach. Education and outreach efforts must adequately inform the public that direct discharges of pollutants from private property not entering an MS4 are prohibited. The ASBS Compliance Plan shall also describe the structural BMPs, including any low impact development (LID) measures, currently employed and planned for higher threat discharges and include an implementation schedule. To control storm water runoff discharges (at the end of pipe) during a design storm, permittees must first consider using LID practices to infiltrate, use, or evapotranspire storm water runoff on-site.~~
- ~~g. The BMPs and implementation schedule shall be designed to ensure with the goal that natural water quality conditions in the receiving water are achieved and maintained by either reducing flows from impervious surfaces or reducing pollutant loading, or some combination thereof.~~
- ~~h. If the results of the receiving water monitoring described in IV.B. of these special conditions indicate that the storm water runoff is causing or contributing to an alteration of natural ocean water quality in the ASBS, the discharger shall submit a report to the State Water Board and Regional Water Board within 30 days of receiving the results.~~
- ~~(1) The report shall identify the constituents in storm water runoff that alter natural ocean water quality and the sources of these constituents.~~
 - ~~(2) The report shall describe BMPs that are currently being implemented, BMPs that are identified in the SWMP or SWPPP for future implementation, and any additional BMPs that may be added to the SWMP or SWPPP to address the alteration of natural water quality. The report shall include a new or modified implementation schedule for the BMPs.~~
 - ~~(3) Within 30 days of the approval of the report by the State Water Board Executive Director (statewide permits) or Regional Water Board Executive Officer (Regional Water Board permits), the discharger shall revise its ASBS Compliance Plan to incorporate any new or modified BMPs that have been or will be implemented, the implementation schedule, and any additional monitoring required.~~

ADMINISTRATIVE DRAFT

~~(4) As long as the discharger has complied with the procedures described above and is implementing the revised SWMP or SWPPP, the discharger does not have to repeat the same procedure for continuing or recurring exceedances of natural ocean water quality conditions due to the same constituent.~~

~~(5) Compliance with this section does not excuse violations of any term, prohibition, or condition contained in these Special Protections.~~

3. Compliance Schedule

- ~~a. On the effective date of the Exception, all Discharger shall obtain the legal authority necessary to prevent and eliminate non-authorized non-storm water discharges (e.g., dry weather flow) are effectively prohibited.~~
- ~~b. Within one year from the effective date of the Exception, the discharger shall submit a written ASBS Compliance Plan to the State Water Board Executive Director (statewide permits) or Regional Water Board Executive Officer (Regional Water Board permits) that describes its strategy to comply with these special conditions, including the requirement goal to maintain natural water quality in the affected ASBS. The ASBS Compliance Plan shall include a time schedule to implement appropriate non-structural and structural controls (implementation schedule) to comply with these special conditions for inclusion in the discharger's SWMP or SWPPP, as appropriate to permit type.~~
- ~~c. Within 18 months of the effective date of the Exception, any non-structural controls that are necessary to comply with these special conditions shall be implemented.~~
- ~~d. Within four (4) years of the effective date of the Exception, any structural controls identified in the ASBS Compliance Plan that are necessary to comply with these special conditions shall be operational.~~
- ~~e. Within four (4) years of the effective date of the Exception, all dischargers must implement non-structural and/or structural BMPs to assist in meeting the goal comply with the requirement that their discharges into the affected ASBS maintain natural ocean water quality. If the initial results of post-storm receiving water quality testing indicate levels higher than the 85th percentile threshold of reference water quality data and the pre-storm receiving water levels, then the discharger must re-sample the receiving water, pre- and post-storm. If after re-sampling the post-storm levels are still higher than the 85th percentile threshold of reference water quality data, and the pre-storm receiving water levels, for any constituent, then natural ocean water quality is exceeded. See attached Flowchart.~~
- ~~f. The Executive Director of the State Water Board (statewide permits) or Executive Officer of the Regional Water Board (Regional Water Board permits) may only authorize additional time to comply with the special conditions d. and e., above if good cause exists to do so. Good cause means a physical impossibility or lack of funding.~~

~~If a discharger claims physical impossibility, it shall notify the Board in writing within thirty (30) days of the date that the discharger first knew of the event or circumstance that caused or would cause it to fail to meet the deadline in d. or e. The notice shall describe the reason for the noncompliance or anticipated noncompliance and specifically refer to~~

ADMINISTRATIVE DRAFT

~~this Section of this Exception. It shall describe the anticipated length of time the delay in compliance may persist, the cause or causes of the delay as well as measures to minimize the impact of the delay on water quality, the measures taken or to be taken by the discharger to prevent or minimize the delay, the schedule by which the measures will be implemented, and the anticipated date of compliance. The discharger shall adopt all reasonable measures to avoid and minimize such delays and their impact on water quality.~~

~~The discharger may request an extension of time for compliance based on lack of funding. The request for an extension shall require:~~

- ~~(1) for municipalities, a demonstration of significant hardship to discharger ratepayers, by showing the relationship of storm water fees to annual household income for residents within the discharger's jurisdictional area, and the discharger has made timely and complete applications for all available bond and grant funding, and either no bond or grant funding is available, or bond and/or grant funding is inadequate; or~~
- ~~(2) for other governmental agencies, a demonstration and documentation of a good faith effort to acquire funding through that agency's budgetary process.~~

B. NONPOINT SOURCE DISCHARGES

~~[NOT INCLUDED]~~

~~[PROVISIONS FOR NONPOINT SOURCE DISCHARGES NOT APPLICABLE]~~

II. ADDITIONAL REQUIREMENTS FOR PARKS AND RECREATION FACILITIES

~~[NOT INCLUDED]~~

~~[ADDITIONAL REQUIREMENTS FOR PARKS AND RECREATION FACILITIES NOT APPLICABLE]~~

III. ADDITIONAL REQUIREMENTS – WATERFRONT AND MARINE OPERATIONS

~~[NOT INCLUDED]~~

~~[ADDITIONAL REQUIREMENTS FOR WATERFRONT AND MARINE OPERATIONS NOT APPLICABLE]~~

IV. MONITORING REQUIREMENTS

~~Monitoring is mandatory for all dischargers to assure compliance with the Ocean Plan. Monitoring requirements include both: (A) core discharge monitoring, and (B) ocean receiving water monitoring. The State and Regional Water Boards must approve sampling site locations and any adjustments to the monitoring programs. All ocean receiving water and reference area monitoring must be comparable with the Water Boards' Surface Water Ambient Monitoring Program (SWAMP).~~

ADMINISTRATIVE DRAFT

~~Safety concerns: Sample locations and sampling periods must be determined considering safety issues. Sampling may be postponed upon notification to the State and Regional Water Boards if hazardous conditions prevail.~~

~~Analytical Chemistry Methods: All constituents must be analyzed using the lowest minimum detection limits comparable to the Ocean Plan water quality objectives. For metal analysis, all samples, including storm water effluent, reference samples, and ocean receiving water samples, must be analyzed by the approved analytical method with the lowest minimum detection limits (currently Inductively Coupled Plasma/Mass Spectrometry) described in the Ocean Plan.~~

A. CORE DISCHARGE MONITORING PROGRAM**1. General sampling requirements for timing and storm size:**

~~Runoff must be collected during a storm event that is greater than 0.1 inch and generates runoff, and at least 72 hours from the previously measurable storm event. Runoff samples shall be collected when post storm receiving water is sampled, and analyzed for the same constituents as receiving water and reference site samples (see section IV-B) as described below.~~

2. Runoff flow measurements

- ~~a. For municipal/industrial storm water outfalls in existence as of December 31, 2007, 18 inches (457mm) or greater in diameter/width (including multiple outfall pipes in combination having a width of 18 inches, runoff flows must be measured or calculated, using a method acceptable to and approved by the State and Regional Water Boards.~~
- ~~b. This will be reported annually for each precipitation season to the State and Regional Water Boards.~~

3. Runoff samples — storm events

- ~~a. For outfalls equal to or greater than 18 inches (0.46m) in diameter or width:
 - ~~(1) samples of storm water runoff shall be analyzed during the same storm as receiving water samples for oil and grease, total suspended solids, and, within the range of the southern sea otter indicator bacteria or some other measure of fecal contamination, ; and~~
 - ~~(2) samples of storm water runoff shall be analyzed for critical life stage chronic toxicity (one invertebrate or algal species) at least once during each storm season when receiving water is sampled in the ASBS~~
 - ~~(3) If an applicant has no outfall greater than 36 inches, then storm water runoff from the applicant's largest outfall shall be further analyzed during the same storm as receiving water samples for Ocean Plan Table B metals for protection of marine life, Ocean Plan polynuclear aromatic hydrocarbons (PAHs), current use pesticides (pyrethroids and OP pesticides), and nutrients (ammonia, nitrate and phosphates).~~~~
- ~~b. For outfalls equal to or greater than 36 inches (0.91m) in diameter or width:~~

ADMINISTRATIVE DRAFT

~~(1) samples of storm water runoff shall be analyzed during the same storm as receiving water samples for oil and grease, total suspended solids, and, within the range of the southern sea otter indicator bacteria or some other measure of fecal contamination; and~~

~~(2) samples of storm water runoff shall be further analyzed during the same storm as receiving water samples for Ocean Plan Table B metals for protection of marine life, Ocean Plan polynuclear aromatic hydrocarbons (PAHs), current use pesticides (pyrethroids and OP pesticides), and nutrients (ammonia, nitrate and phosphates) and~~

~~(3) samples of storm water runoff shall be analyzed for critical life stage chronic toxicity (one invertebrate or algal species) at least once during each storm season when receiving water is sampled in the ASBS.~~

~~c. For an applicant not participating in a regional monitoring program [see below in Section IV (B)] in addition to (a.) and (b.) above, a minimum of the two largest outfalls or 20 percent of the larger outfalls, whichever is greater, shall be sampled (flow weighted composite samples) at least three times annually during wet weather (storm event) and analyzed for all Ocean Plan Table A constituents, Table B constituents for marine aquatic life protection (except for toxicity, only chronic toxicity for three species shall be required), DDT, PCBs, Ocean Plan PAHs, OP pesticides, pyrethroids, nitrates, phosphates, and Ocean Plan indicator bacteria. For parties discharging to ASBS in more than one Regional Water Board region, at a minimum, one (the largest) such discharge shall be sampled annually in each Region.~~

~~4. The Executive Director of the State Water Board (statewide permits) or Executive Officer of the Regional Water Board (Regional Water Board permits) may reduce or suspend core monitoring once the storm runoff is fully characterized. This determination may be made at any point after the discharge is fully characterized, but is best made after the monitoring results from the first permit cycle are assessed.~~

B. OCEAN RECEIVING WATER AND REFERENCE AREA MONITORING PROGRAM

~~In addition to performing the Core Discharge Monitoring Program in Section II.A above, all applicants having authorized discharges must perform ocean receiving water monitoring. In order to fulfill the requirements for monitoring the physical, chemical, and biological characteristics of the ocean receiving waters within their ASBS, dischargers may choose either (1) an individual monitoring program, or (2) participation in a regional integrated monitoring program.~~

~~1. Individual Monitoring Program: The requirements listed below are for those dischargers who elect to perform an individual monitoring program to fulfill the requirements for monitoring the physical, chemical, and biological characteristics of the ocean receiving waters within the affected ASBS. In addition to Core Discharge Monitoring, the following additional monitoring requirements shall be met:~~

~~a. Three times annually, during wet weather (storm events), the receiving water at the point of discharge from the outfalls described in section (IV)(A)(3)(c) above shall be sampled and analyzed for Ocean Plan Table A constituents, Table B constituents for marine~~

ADMINISTRATIVE DRAFT

~~aquatic life, DDT, PCBs, Ocean Plan PAHs, OP pesticides, pyrethroids, nitrates, phosphates, salinity, chronic toxicity (three species), and Ocean Plan indicator bacteria.~~

~~The sample location for the ocean receiving water shall be in the surf zone at the point of discharges; this must be at the same location where storm water runoff is sampled. Receiving water shall be sampled at approximately the same time prior to (pre-storm) and during (or immediately after) the same storm (post storm). Reference water quality shall also be sampled and analyzed for the same constituents pre-storm and post-storm, during the same storms when receiving water is sampled. Reference stations will be determined by the State Water Board's Division of Water Quality and the applicable Regional Water Board(s).~~

- ~~b. Sediment sampling shall occur at least three times during every five (5) year period. The subtidal sediment (sand or finer, if present) at the discharge shall be sampled and analyzed for Ocean Plan Table B constituents for marine aquatic life, DDT, PCBs, PAHs, pyrethroids, and OP pesticides. For sediment toxicity testing, only an acute toxicity test using the amphipod Eohaustorius estuarius must be performed.~~
- ~~e. A quantitative survey of intertidal benthic marine life shall be performed at the discharge and at a reference site. The survey shall be performed at least once every five (5) year period. The survey design is subject to approval by the Regional Water Board and the State Water Board's Division of Water Quality. The results of the survey shall be completed and submitted to the State Water Board and Regional Water Board at least six months prior to the end of the permit cycle.~~
- ~~d. Once during each five (5) year period, a bioaccumulation study shall be conducted to determine the concentrations of metals and synthetic organic pollutants at representative discharge sites and at representative reference sites. The study design is subject to approval by the Regional Water Board and the State Water Board's Division of Water Quality. The bioaccumulation study may include California mussels (*Mytilus californianus*) and/or sand crabs (*Emerita analoga* or *Blepharipoda occidentalis*). Based on the study results, the Regional Water Board and the State Water Board's Division of Water Quality, may adjust the study design in subsequent permits, or add or modify additional test organisms (such as shore crabs or fish), or modify the study design appropriate for the area and best available sensitive measures of contaminant exposure.~~
- ~~e. Marine Debris: Representative quantitative observations for trash by type and source shall be performed along the coast of the ASBS within the influence of the discharger's outfalls. The design, including locations and frequency, of the marine debris observations is subject to approval by the Regional Water Board and State Water Board's Division of Water Quality.~~
- ~~f. The monitoring requirements of the Individual Monitoring Program in this section are minimum requirements. After a minimum of one (1) year of continuous water quality monitoring of the discharges and ocean receiving waters, the Executive Director of the State Water Board (statewide permits) or Executive officer of the Regional Water Board (Regional Water Board permits) may require additional monitoring, or adjust, reduce or suspend receiving water and reference station monitoring. This determination may be made at any point after the discharge and receiving water is fully characterized, but is best made after the monitoring results from the first permit cycle are assessed.~~

ADMINISTRATIVE DRAFT

- ~~2.—Regional Integrated Monitoring Program: Dischargers may elect to participate in a regional integrated monitoring program, in lieu of an individual monitoring program, to fulfill the requirements for monitoring the physical, chemical, and biological characteristics of the ocean receiving waters within their ASBS. This regional approach shall characterize natural water quality, pre- and post-storm, in ocean reference areas near the mouths of identified open space watersheds and the effects of the discharges on natural water quality (physical, chemical, and toxicity) in the ASBS receiving waters, and should include benthic marine aquatic life and bioaccumulation components. The design of the ASBS stratum of a regional integrated monitoring program may deviate from the otherwise prescribed individual monitoring approach (in Section IV.B.1) if approved by the State Water Board's Division of Water Quality and the Regional Water Boards.~~
- ~~a.—Ocean reference areas shall be located at the drainages of flowing watersheds with minimal development (in no instance more than 10% development), and shall not be located in CWA Section 303(d) listed waterbodies or have tributaries that are 303(d) listed. Reference areas shall be free of wastewater discharges and anthropogenic non-storm water runoff. A minimum of low threat storm runoff discharges (e.g. stream highway overpasses and campgrounds) may be allowed on a case by case basis. Reference areas shall be located in the same region as the ASBS receiving water monitoring occurs. The reference areas for each Region are subject to approval by the participants in the regional monitoring program and the State Water Board's Division of Water Quality and the applicable Regional Water Board(s). A minimum of three ocean reference water samples must be collected from each station, each from a separate storm. A minimum of one reference location shall be sampled for each ASBS receiving water site sampled per responsible party. For parties discharging to ASBS in more than one Regional Water Board region, at a minimum, one reference station and one receiving water station shall be sampled in each region.~~
- ~~b.—ASBS ocean receiving water must be sampled in the surf zone at the location where the runoff makes contact with ocean water (i.e. at "point zero"). Ocean receiving water stations must be representative of worst case discharge conditions (i.e. co-located at a large drain greater than 36 inches, or if drains greater than 36 inches are not present in the ASBS then the largest drain greater than 18 inches.) Ocean receiving water stations are subject to approval by the participants in the regional monitoring program and the State Water Board's Division of Water Quality and the applicable Regional Water Board(s). A minimum of three ocean receiving water samples must be collected during each storm season from each station, each from a separate storm. A minimum of one receiving water location shall be sampled in each ASBS per responsible party in that ASBS. For parties discharging to ASBS in more than one Regional Water Board region, at a minimum, one reference station and one receiving water station shall be sampled in each region.~~
- ~~c.—Reference and receiving water sampling shall commence during the first full storm season following the adoption of these special conditions, and post-storm samples shall be collected when annual storm water runoff is sampled. Sampling shall occur in a minimum of two storm seasons. For those ASBS dischargers that have already participated in the Southern California Bight 2008 ASBS regional monitoring effort, sampling may be limited to only one storm season.~~
- ~~d.—Receiving water and reference samples shall be analyzed for the same constituents as storm water runoff samples. At a minimum, constituents to be sampled and analyzed in~~

ADMINISTRATIVE DRAFT

~~reference and discharge receiving waters must include oil and grease, total suspended solids, Ocean Plan Table B metals for protection of marine life, Ocean Plan PAHs, pyrethroids, OP pesticides, ammonia, nitrate, phosphates, and critical life stage chronic toxicity for three species. In addition, within the range of the southern sea otter, indicator bacteria or some other measure of fecal contamination shall be analyzed.~~

~~3. Waterfront and Marine Operations: In addition to the above requirements for ocean receiving water monitoring, additional monitoring must be performed for marinas and boat launch and pier facilities:~~

~~a. For all marina or mooring field operators, in mooring fields with 10 or more occupied moorings, the ocean receiving water must be sampled for Ocean Plan indicator bacteria, residual chlorine, copper, zinc, grease and oil, methylene blue active substances (MBAS), and ammonia nitrogen.~~

~~(1) For mooring field operators opting for an individual monitoring program (Section IV.B.1 above), this sampling must occur weekly (on the weekend) from May through October.~~

~~(2) For mooring field operators opting to participate in a regional integrated monitoring program (Section IV.B.2 above), this sampling must occur monthly from May through October on a high use weekend in each month. The Water Boards may allow a reduction in the frequency of sampling, through the regional monitoring program, after the first year of monitoring.~~

~~b. For all mooring field operators, the subtidal sediment (sand or finer, if present) within mooring fields and below piers shall be sampled and analyzed for Ocean Plan Table B metals (for marine aquatic life beneficial use), acute toxicity, PAHs, and tributyltin. For sediment toxicity testing, only an acute toxicity test using the amphipod Eohaustorius estuarius must be performed. This sampling shall occur at least three times during a five (5) year period. For mooring field operators opting to participate in a regional integrated monitoring program, the Water Boards may allow a reduction in the frequency of sampling after the first sampling effort's results are assessed.~~

ADMINISTRATIVE DRAFT**ATTACHMENT B****STANDARD PERMIT PROVISIONS AND GENERAL PROVISIONS****1. Standard Permit Provisions**

Code of Federal Regulations Title 40 Section 122.41 (40 CFR 122.41) includes conditions, or provisions, that apply to all National Pollutant Discharge Elimination System (NPDES) permits. Additional provisions applicable to NPDES permits are in 40 CFR 122.42. All applicable provisions in 40 CFR 122.41 and 40 CFR 122.42 must be incorporated into this Order and NPDES permit. The applicable 40 CFR 122.41 and 40 CFR 122.42 provisions are as follows:

a. DUTY TO COMPLY [40 CFR 122.41(a)]

The Copermittee must comply with all of the provisions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act (CWA) and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

- (1) The Copermittee must comply with effluent standards or prohibitions established under Section 307(a) of the CWA for toxic pollutants and with standards for sewage sludge use or disposal established under Section 405(d) of the CWA within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if the permit has not yet been modified to incorporate the requirement. [40 CFR 122.41(a)(1)]
- (2) The CWA provides that any person who violates Section 301, 302, 306, 307, 308, 318 or 405 of the CWA, or any permit condition or limitation implementing any such sections in a permit issued under Section 402, or any requirement imposed in a pretreatment program approved under Section 402(a)(3) or 402(b)(8) of the CWA, is subject to a civil penalty not to exceed \$25,000 per day for each violation. The CWA provides that any person who *negligently* violates Section 301, 302, 306, 307, 308, 318, or 405 of the CWA, or any condition or limitation implementing any of such sections in a permit issued under Section 402 of the CWA, or any requirement imposed in a pretreatment program approved under Section 402(a)(3) or 402(b)(8) of the CWA, is subject to criminal penalties of \$2,500 to \$25,000 per day of violation, or imprisonment of not more than 1 year, or both. In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than \$50,000 per day of violation, or by imprisonment of not more than 2 years, or both. Any person who *knowingly* violates such sections, or such conditions or limitations is subject to criminal penalties of \$5,000 to \$50,000 per day of violation, or imprisonment for not more than 3 years, or both. In the case of a second or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than \$100,000 per day of violation, or imprisonment of not more than 6 years, or both. Any person who knowingly violates Section 301, 302, 303, 306, 307, 308, 318 or 405 of the CWA, or any permit condition or limitation implementing any of such sections in a permit issued under Section 402 of the CWA, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of

ADMINISTRATIVE DRAFT

not more than \$250,000 or imprisonment of not more than 15 years, or both. In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than \$500,000 or by imprisonment of not more than 30 years, or both. An organization, as defined in Section 309(c)(3)(B)(iii) of the CWA, shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than \$1,000,000 and can be fined up to \$2,000,000 for second or subsequent convictions.
[40 CFR 122.41(a)(2)]

- (3) Any person may be assessed an administrative penalty by the San Diego Regional Water Quality Control Board (San Diego Water Board), State Water Resources Control Board (State Water Board), or United States Environmental Protection Agency (USEPA) for violating Section 301, 302, 306, 307, 308, 318 or 405 of the CWA, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act. Administrative penalties for Class I violations are not to exceed \$10,000 per violation, with the maximum amount of any Class I penalty assessed not to exceed \$25,000. Penalties for Class II violations are not to exceed \$10,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed \$125,000.
[40 CFR 122.41(a)(3)]

b. DUTY TO REAPPLY [40 CFR 122.41(b)]

If a Copermittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the Copermittee must apply for and obtain a new permit.

c. NEED TO HALT OR REDUCE ACTIVITY NOT A DEFENSE [40 CFR 122.41(c)]

It shall not be a defense for a Copermittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

d. DUTY TO MITIGATE [40 CFR 122.41(d)]

The Copermittee must take all reasonable steps to minimize or prevent any discharge or prevent any discharge or sludge use or disposal in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

e. PROPER OPERATION AND MAINTENANCE [40 CFR 122.41(e)]

The Copermittee must at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Copermittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems that are installed by a Copermittee only when the operation is necessary to achieve compliance with the conditions of this permit.

ADMINISTRATIVE DRAFT**f. PERMIT ACTIONS** [40 CFR 122.41(f)]

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the Copermittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

g. PROPERTY RIGHTS [40 CFR 122.41(g)]

This permit does not convey any property rights of any sort, or any exclusive privilege.

h. DUTY TO PROVIDE INFORMATION [40 CFR 122.41(h)]

The Copermittee must furnish to the San Diego Water Board, State Water Board, or USEPA within a reasonable time, any information which the San Diego Water Board, State Water Board, or USPEA may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The Copermittee must also furnish to the San Diego Water Board, State Water Board, or USPEA upon request, copies of records required to be kept by this permit.

i. INSPECTION AND ENTRY [40 CFR 122.41(i)]

The Copermittee must allow the San Diego Water Board, State Water Board, USEPA, and/or their authorized representative (including an authorized contractor acting as their representative), upon presentation of credentials and other documents as may be required by law, to:

- (1) Enter upon the Copermittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit; [40 CFR 122.41(i)(1)]
- (2) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit; [40 CFR 122.41(i)(2)]
- (3) Inspect and photograph at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; [40 CFR 122.41(i)(3)] and
- (4) Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the CWA, any substances or parameters at any location. [40 CFR 122.41(i)(4)]

j. MONITORING AND RECORDS [40 CFR 122.41(j)]

- (1) Samples and measurements taken for the purpose of monitoring must be representative of the monitored activity. [40 CFR 122.41(j)(1)]
- (2) Except for records of monitoring information required by this permit related to the Copermittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five (5) years (or longer as required by 40 CFR Part 503), the

ATTACHMENT B: STANDARD PERMIT PROVISIONS AND GENERAL PROVISIONS

1. Standard Permit Provisions

ADMINISTRATIVE DRAFT

Copermittee must retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report or application. This period may be extended by request of the San Diego Water Board at any time. [40 CFR 122.41(j)(2)]

(3) Records for monitoring information must include: [40 CFR 122.41(j)(3)]

- (a) The date, exact place, and time of sampling or measurements; [40 CFR 122.41(j)(3)(i)]
- (b) The individual(s) who performed the sampling or measurements; [40 CFR 122.41(j)(3)(ii)]
- (c) The date(s) analyses were performed; [40 CFR 122.41(j)(3)(iii)]
- (d) The individual(s) who performed the analyses; [40 CFR 122.41(j)(3)(iv)]
- (e) The analytical techniques or methods used; [40 CFR 122.41(j)(3)(v)] and
- (f) The results of such analyses. [40 CFR 122.41(j)(3)(vi)]

(4) Monitoring must be conducted according to test procedures under 40 CFR Part 136 unless another method is required under 40 CFR Subchapters N or O. [40 CFR 122.41(j)(4)]

In the case of pollutants for which there are no approved methods under 40 CFR Part 136 or otherwise required under 40 CFR Subchapters N and O, monitoring must be conducted according to a test procedure specified in the permit for such pollutants. [40 CFR 122.44(i)(1)(iv)]

(5) The CWA provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or both. [40 CFR 122.41(j)(5)]

k. SIGNATORY REQUIREMENT [40 CFR 122.41(k)]

(1) All applications, reports, or information submitted to the San Diego Water Board, State Water Board, or USEPA must be signed and certified. (See 40 CFR 122.22) [40 CFR 122.41(k)(1)]

- (a) *For a municipality, State, Federal, or other public agency.* [All applications must be signed] [b]y either a principal executive officer or ranking elected official. [40 CFR 122.22(a)(3)]
- (b) All reports required by permits, and other information requested by the San Diego Water Board, State Water Board, or USEPA must be signed by a person described in paragraph (a) of this section, or by a duly authorized representative of that person. A person is a duly authorized representative only if: [40 CFR 122.22(b)]

ADMINISTRATIVE DRAFT

- (i) The authorization is made in writing by a person described in paragraph (a) of this section; [40 CFR 122.22(b)(1)]
 - (ii) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company, (A duly authorized representative may thus be either a named individual or any individual occupying a named position.) [40 CFR 122.22(b)(2)] and,
 - (iii) The written authorization is submitted to the San Diego Water Board and State Water Board. [40 CFR 122.22(b)(3)]
- (c) *Changes to authorization.* If an authorization under paragraph (b) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph (b) of this section must be submitted to the San Diego Water Board prior to or together with any reports, information, or applications to be signed by an authorized representative. [40 CFR 122.22(c)]
- (d) *Certification.* Any person signing a document under paragraph (a) or (b) of this section shall make the following certification:
- “I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.” [40 CFR 122.22(d)]
- (2) The CWA provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both. [40 CFR 122.41(k)(2)]

I. REPORTING REQUIREMENTS [40 CFR 122.41(l)]

- (1) *Planned changes.* The Copermittee must give notice to the San Diego Water Board as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when: [40 CFR 122.41(l)(1)]
- (a) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR 122.29(b); [40 CFR 122.41(l)(1)(i)] or
 - (b) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which

ATTACHMENT B: STANDARD PERMIT PROVISIONS AND GENERAL PROVISIONS

1. Standard Permit Provisions

ADMINISTRATIVE DRAFT

are subject neither to effluent limitations in the permit, nor to notification requirements under 40 CFR 122.42(a)(1).
[40 CFR 122.41(l)(1)(ii)]

- (c) The alteration or addition results in a significant change in the Copermitee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan. [40 CFR 122.41(l)(1)(iii)]
- (2) *Anticipated noncompliance.* The Copermitee must give advance notice to the San Diego Water Board or State Water Board of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements. [40 CFR 122.41(l)(2)]
- (3) *Transfers.* This permit is not transferable to any person except after notice to the San Diego Water Board. The San Diego Water Board may require modification or revocation and reissuance of the permit to change the name of the Copermitee and incorporate such other requirements as may be necessary under the CWA. [40 CFR 122.41(l)(3)]
- (4) *Monitoring reports.* Monitoring results must be reported at the intervals specified elsewhere in this permit. [40 CFR 122.41(l)(4)]
 - (a) Monitoring results must be reported on a Discharge Monitoring Report (DMR) form or forms provided or specified by the San Diego Water Board or State Water Board for reporting results of monitoring of sludge use or disposal practices. [40 CFR 122.41(l)(4)(i)]
 - (b) If the Copermitee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR Part 136 or another method required for an industry-specific waste stream under 40 CFR Subchapters N or O, the results of this monitoring must be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the San Diego Water Board or State Water Board. [40 CFR 122.41(l)(4)(ii)]
 - (c) Calculations for all limitations which require averaging of measurements must utilize an arithmetic mean unless otherwise specified in the permit. [40 CFR 122.41(l)(4)(iii)]
- (5) *Compliance schedules.* Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit must be submitted no later than 14 days following each schedule date. [40 CFR 122.41(l)(5)]
- (6) *Twenty-four hour reporting.*
 - (a) The Copermitee must report any noncompliance that may endanger health or the environment. Any information must be provided orally within 24 hours from

ADMINISTRATIVE DRAFT

the time the Copermittee becomes aware of the circumstances. A written submission must also be provided within five (5) days of the time the Copermittee becomes aware of the circumstances. The written submission must contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. [40 CFR 122.41(l)(6)(i)]

- (b) The following must be included as information which must be reported within 24 hours under this paragraph: [40 CFR 122.41(l)(6)(ii)]
- (i) Any unanticipated bypass that exceeds any effluent limitation in the permit (See 40 CFR 122.41(g)). [40 CFR 122.41(l)(6)(ii)(A)]
 - (ii) Any upset which exceeds any effluent limitation in the permit. [40 CFR 122.41(l)(6)(ii)(B)] and,
 - (iii) Violation of a maximum daily discharge limitation for any of the pollutants listed by the San Diego Water Board in the permit to be reported within 24 hours. (See 40 CFR 122.44(g)) [40 CFR 122.41(l)(6)(ii)(C)]
- (c) The San Diego Water Board may waive the above-required written report on a case-by-case basis if the oral report has been received within 24 hours. [40 CFR 122.41(l)(6)(iii)]
- (7) *Other noncompliance.* The Copermittee must report all instances of noncompliance not reported in accordance with the standard provisions required under 40 CFR 122.41(l)(4), (5), and (6), at the time monitoring reports are submitted. The reports must contain the information listed in the standard provisions required under 40 CFR 122.41(l)(6). [40 CFR 122.41(l)(7)]
- (8) *Other information.* When the Copermittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the San Diego Water Board, State Water Board, or USEPA, the Copermittee must promptly submit such facts or information. [40 CFR 122.41(l)(8)]

~~m. BYPASS~~ [40 CFR 122.41(m)]**~~(1) Definitions.~~**

- ~~(a) "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility. [40 CFR 122.41(m)(1)(i)] or~~
- ~~(b) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production. [40 CFR 122.41(m)(1)(ii)]~~

ADMINISTRATIVE DRAFT

~~(2) *Bypass not exceeding limitations.*—The Copermittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the standard provisions required under 40 CFR 122.41(m)(3) and (4). [40 CFR 122.41(m)(2)]~~

~~(3) *Notice.*~~

~~(a) *Anticipated bypass.*—If the Copermittee knows in advance of the need for a bypass, it must submit a notice, if possible at least ten days before the date of the bypass. [40 CFR 122.41(m)(3)(i)] or~~

~~(b) *Unanticipated bypass.*—The Copermittee must submit notice of an unanticipated bypass in accordance with the standard provisions required under 40 CFR 122.41(l)(6) (24-hour notice). [40 CFR 122.41(m)(3)(ii)]~~

~~(4) *Prohibition of Bypass.*~~

~~(a) *Bypass is prohibited, and the San Diego Water Board may take enforcement action against a Copermittee for bypass, unless:*~~
[40 CFR 122.41(m)(4)(i)]

~~(i) *Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage; [40 CFR 122.41(m)(4)(i)(A)]*~~

~~(ii) *There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; [40 CFR 122.41(m)(4)(i)(B)] and,*~~

~~(iii) *The Copermittee submitted notice in accordance with the standard provisions required under 40 CFR 122.41(m)(3). [40 CFR 122.41(m)(4)(i)(C)]*~~

~~(b) *The San Diego Water Board may approve an anticipated bypass, after considering its adverse effects, if the San Diego Water Board determines that it will meet the three conditions listed above. [40 CFR 122.41(m)(4)(ii)]*~~

~~n.m.~~ **UPSET** [40 CFR 122.41(n)]

(1) *Definition.* “Upset” means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the Copermittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation. [40 CFR 122.41(n)(1)]

ADMINISTRATIVE DRAFT

- (2) *Effect of an upset.* An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the standard provisions required under 40 CFR 122.41(n)(3) are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review. [40 CFR 122.41(n)(2)]
- (3) *Conditions necessary for a demonstration of upset.* A Copermitee who wishes to establish the affirmative defense of upset must demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
[40 CFR 122.41(n)(3)]
- (a) An upset occurred and that the Copermitee can identify the cause(s) of the upset; [40 CFR 122.41(n)(3)(i)]
 - (b) The permitted facility was at the time being properly operated;
[40 CFR 122.41(n)(3)(ii)] and
 - (c) The Copermitee submitted notice of the upset in accordance with the standard provisions required under 40 CFR 122.41(l)(6)(ii)(B) (24-hour notice).
[40 CFR 122.41(n)(3)(iii)]
 - (d) The Copermitee complied with any remedial measures pursuant to the standard provisions required under 40 CFR 122.41(d).
[40 CFR 122.41(n)(3)(iii)]
- (4) *Burden of proof.* In any enforcement proceeding, the Copermitee seeking to establish the occurrence of an upset has the burden of proof.
[40 CFR 122.41(n)(4)]

e-n. STANDARD PERMIT PROVISIONS FOR MUNICIPAL SEPARATE STORM SEWER SYSTEMS

[40 CFR 122.42(c)]

The operator of a large or medium municipal separate storm sewer system or a municipal separate storm sewer that has been designated by the San Diego Water Board or State Water Board under 40 CFR 122.26(a)(1)(v) must submit an annual report by the anniversary of the date of the issuance of the permit for such system. The report must include:

- (1) The status of implementing the components of the storm water management program that are established as permit conditions; [40 CFR 122.42(c)(1)]
- (2) Proposed changes to the storm water management programs that are established as permit conditions. Such proposed changes must be consistent with 40 CFR 122.26(d)(2)(iii); [40 CFR 122.42(c)(2)] and
- (3) Revisions, if necessary, to the assessment of controls and the fiscal analysis reported in the permit application under 40 CFR 122.26(d)(2)(iv) and (v);
[40 CFR 122.42(c)(3)]
- (4) A summary of data, including monitoring data, that is accumulated throughout the reporting year; [40 CFR 122.42(c)(4)]
- (5) Annual expenditures and budget for year following each annual report;

ATTACHMENT B: STANDARD PERMIT PROVISIONS AND GENERAL PROVISIONS
1. Standard Permit Provisions

ADMINISTRATIVE DRAFT

[40 CFR 122.42(c)(5)]

- (6) A summary describing the number and nature of enforcement actions, inspections, and public education programs; [40 CFR 122.42(c)(6)]
- (7) Identification of water quality improvements or degradation.
[40 CFR 122.42(c)(7)]

P.O. STANDARD PERMIT PROVISIONS FOR STORM WATER DISCHARGES [40 CFR 122.42(d)]

The initial permits for discharges composed entirely of storm water issued pursuant to 40 CFR 122.26(e)(7) must require compliance with the conditions of the permit as expeditiously as practicable, but in no event later than three years after the date of issuance of the permit.

2. General Provisions

In addition to the standard provisions required to be incorporated into the Order and NPDES permit pursuant to 40 CFR 122.41 and 40 CFR 122.42, several other general provisions apply to this Order. The general provisions applicable to this Order and NPDES permit are as follows:

a. DISCHARGE OF WASTE IS A PRIVILEGE

No discharge of waste into the waters of the State, whether or not such discharge is made pursuant to waste discharge requirements, shall create a vested right to continue such discharge. All discharges of waste into waters of the State are privileges, not rights. [CWC Section 13263(g)]

b. DURATION OF ORDER AND NPDES PERMIT

- (1) *Effective date.* This Order and NPDES permit becomes effective on the date of its adoption provided the USEPA has no objection. If the USEPA objects to its issuance, this Order shall not become effective until such objection is withdrawn. This Order supersedes Order No. R9-2007-0001 upon the effective date of this Order, and supercedes Order Nos. R9-2009-0002 and R9-2010-0016 upon their expiration.
- (2) *Expiration.* This Order and NPDES permit expires five years after adoption.
[40 CFR 122.46(a)]
- (3) *Continuation of expired order.* After this Order and NPDES permit expires, the terms and conditions of this Order and NPDES permit are automatically continued pending issuance of a new permit if all requirements of the federal NPDES regulations on the continuation of expired permits (40 CFR 122.6) are complied with.

c. AVAILABILITY

A copy of this Order must be kept at a readily accessible location and must be available to on-site personnel at all times.

ATTACHMENT B: STANDARD PERMIT PROVISIONS AND GENERAL PROVISIONS
1. Standard Permit Provisions
2. General Provisions

Tentative Order No. R9-2012-0011

B-2

Month Day, 2012

ADMINISTRATIVE DRAFT

ADMINISTRATIVE DRAFT**d. CONFIDENTIALITY OF INFORMATION**

Except as provided for in 40 CFR 122.7, no information or documents submitted in accordance with or in application for this Order will be considered confidential, and all such information and documents shall be available for review by the public at the San Diego Water Board office.

Claims of confidentiality for the following information will be denied:
[40 CFR 122.7(b)]

- (1) The name and address of any permit applicant or Copermitee;
[40 CFR 122.7(b)(1)] and
- (2) Permit applications and attachments, permits, and effluent data.
[40 CFR 122.7(b)(2)]

e. EFFLUENT LIMITATIONS

- (1) *Interim effluent limitations.* The Copermitee must comply with any interim effluent limitations as established by addendum, enforcement action, or revised waste discharge requirements which have been, or may be, adopted by the San Diego Water Board.
- (2) *Other effluent limitations and standards.* If any applicable toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under Section 307(a) of the CWA for a toxic pollutant and that standard or prohibition is more stringent than any limitation on the pollutant in the permit, the San Diego Water Board shall institute proceedings under these regulations to modify or revoke and reissue the permit to conform to the toxic effluent standard or prohibition. [40 CFR 122.44(b)(1)]

f. DUTY TO MINIMIZE OR CORRECT ADVERSE IMPACTS

The Copermitee must take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with this Order, including such accelerated or additional monitoring as may be necessary to determine the nature and impact of the noncompliance.

g. PERMIT ACTIONS

The filing of a request by the Copermitee for modification, revocation and reissuance, or termination of this Order, or a notification of planned change in or anticipated noncompliance with this Order does not stay any condition of this Order. (See 40 CFR 122.41(f)) In addition, the following provisions apply to this Order:

- (1) Upon application by any affected person, or on its own motion, the San Diego Water Board may review and revise the requirements in this Order. All requirements must be reviewed periodically. [CWC Section 13263(e)]
- (2) This Order may be terminated or modified for cause, including, but not limited to, all of the following: [CWC Section 13381]

ADMINISTRATIVE DRAFT

- (a) Violation of any condition contained in the requirements of this Order. [CWC Section 13381(a)]
 - (b) Obtaining the requirements in this Order by misrepresentation, or failure to disclose fully all relevant facts. [CWC Section 13381(b)]
 - (c) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge. [CWC Section 13381(c)]
- (3) When this Order is transferred to a new owner or operator, such requirements as may be necessary under the CWC may be incorporated into this Order.

h. NPDES PERMITTED NON-STORM WATER DISCHARGES

The San Diego Water Board has, in prior years, issued a limited number of individual NPDES permits for non-storm water discharges to MS4s. The San Diego Water Board or State Water Board may in the future, upon prior notice to the Copermittee(s), issue an NPDES permit for any non-storm water discharge (or class of non-storm water discharges) to an MS4.

i. MONITORING

In addition to the standard provisions required under 40 CFR 122.41(j) and (l)(4), the following general monitoring provisions apply to this Order:

- (1) Where procedures are not otherwise specified in Order, sampling, analysis and quality assurance/quality control must be conducted in accordance with the Quality Assurance Management Plan (QAMP) for the State of California's Surface Water Ambient Monitoring Program (SWAMP), adopted by the State Water Resources Control Board (State Water Board).
- (2) Pursuant to 40 CFR 122.41(j)(2) and CWC Section 13383(a), each Copermittee must retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least five (5) years from the date of the sample, measurement, report or application. This period may be extended by request of the San Diego Water Board at any time.
- (3) All chemical, bacteriological, and toxicity analyses must be conducted at a laboratory certified for such analyses by the California Department of Public Health or a laboratory approved by the San Diego Water Board.
- (4) For priority toxic pollutants that are identified in the California Toxics Rule (CTR) (65 Fed. Reg. 31682), the Copermittees must instruct their laboratories to establish calibration standards that are equivalent to or lower than the Minimum Levels (MLs) published in Appendix 4 of the Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (SIP). If a Copermittee can demonstrate that a particular ML is not attainable, in accordance

ADMINISTRATIVE DRAFT

with procedures set forth in 40 CFR Part 136, the lowest quantifiable concentration of the lowest calibration standard analyzed by a specific analytical procedure (assuming that all the method specified sample weights, volumes, and processing steps have been followed) may be used instead of the ML listed in Appendix 4 of the SIP. The Copermittee must submit documentation from the laboratory to the San Diego Water Board for approval prior to raising the ML for any priority toxic pollutant.

j. ENFORCEMENT

- (1) The San Diego Water Board is authorized to enforce the terms of this Order under several provisions of the CWC, including, but not limited to, CWC Sections 13385, 13386, and 13387.
- (2) Nothing in this Order shall be construed to protect the Copermittee from its liabilities under federal, state, or local laws.
- (3) The CWC provides for civil and criminal penalties comparable to, and in some cases greater than, those provided for under the CWA.
- (4) Except as provided in the standard conditions required under 40 CFR 122.41(m) and (n), nothing in this Order shall be construed to relieve the Copermittee from civil or criminal penalties for noncompliance.
- (5) Nothing in this Order shall be construed to preclude the institution of any legal action or relieve the Copermittee from any responsibilities, liabilities, or penalties to which the Copermittee is or may be subject to under Section 311 of the CWA.
- (6) Nothing in this Order shall be construed to preclude institution of any legal action or relieve the Copermittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authoring preserved by Section 510 of the CWA.

k. SEVERABILITY

The provisions of this Order are severable, and if any provision of this Order, or the application of any provisions of this Order to any circumstance, is held invalid, the application of such provision to other circumstances and the remainder of this Order shall not be affected thereby.

l. APPLICATIONS

Any application submitted by a Copermittee for reissuance or modification of this Order must satisfy all applicable requirements specified in federal regulations as well as any additional requirements for submittal of a Report of Waste Discharge specified in the CWC and the California Code of Regulations.

m. IMPLEMENTATION

All plans, reports and subsequent amendments submitted in compliance with this Order must be implemented immediately (or as otherwise specified). All submittals by Copermittees must be adequate to implement the requirements of this Order.

ADMINISTRATIVE DRAFT

n. REPORT SUBMITTALS

- (1) All report submittals must include an executive summary, introduction, conclusion, recommendations, and signed certified statement.
- (2) Each Copermittee must submit a signed certified statement covering its responsibilities for each applicable submittal.
- (3) The Principal Watershed Copermittee(s) must submit a signed certified statement covering its responsibilities for each applicable submittal and the sections of the submittals for which it is responsible.
- (4) Unless otherwise directed, the Copermittees must submit one hard copy and one electronic copy of each report required under this Order to the San Diego Water Board, and one electronic copy to the USEPA.
- (5) The Copermittees must submit reports and provide notifications as required by this Order to the following:

EXECUTIVE OFFICER
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION
9174 SKY PARK COURT, SUITE 100
SAN DIEGO CA 92123-4340
Telephone: (858) 467-2952 Fax: (858) 571-6972

EUGENE BROMLEY
US ENVIRONMENTAL PROTECTION AGENCY
REGION IX
PERMITS ISSUANCE SECTION (W-5-1)
75 HAWTHORNE STREET
SAN FRANCISCO CA 94105

ADMINISTRATIVE DRAFT**ATTACHMENT C****ACRONYMS AND ABBREVIATIONS**

AMAL	Average Monthly Action Level
ASBS	Area(s) of Special Biological Significance
BMP	Best Management Practice
BMP Design Manual Basin Plan	Permanent BMP Sizing Criteria Design Manual Water Quality Control Plan for the San Diego Basin
CEQA	California Environmental Quality Act
CCR	California Code of Regulations
CFR	Code of Federal Regulations
CWA	Clean Water Act
CWC	California Water Code
CZARA	Coastal Zone Act Reauthorization Amendments of 1990
ERP	Enforcement Response Plan
ESAs	Environmentally Sensitive Areas
GIS	Geographic Information System
IBI	Index of Biotic Integrity
LID	Low Impact Development
MDAL	Maximum Daily Action Level
MEP	Maximum Extent Practicable
ML	Minimum Level
MS4	Municipal Separate Storm Sewer System
NAL	Non-Storm Water Action Level
NOI	Notice of Intent
NPDES	National Pollutant Discharge Elimination System
ROWD	Report of Waste Discharge (application for NPDES reissuance)
SAL	Storm Water Action Level
San Diego Water Board	California Regional Water Quality Control Board, San Diego Region
SIC	Standard Industrial Classification Code
State Water Board	State Water Resources Control Board
TMDL	Total Maximum Daily Load
USEPA	United States Environmental Protection Agency
WDID	Waste Discharge Identification Number
WLA	Waste Load Allocation

ADMINISTRATIVE DRAFT

WQBEL

Water Quality Based Effluent Limitation

DEFINITIONS

Active/Passive Sediment Treatment - Using mechanical, electrical or chemical means to flocculate or coagulate suspended sediment for removal from runoff from construction sites prior to discharge.

Anthropogenic Litter – Trash generated from human activities, not including sediment.

Average Monthly Action Level – The highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month or the geometric mean for bacteria, as applicable.

Beneficial Uses - The uses of water necessary for the survival or well being of man, plants, and wildlife. These uses of water serve to promote tangible and intangible economic, social, and environmental goals. "Beneficial Uses" of the waters of the State that may be protected include, but are not limited to, domestic, municipal, agricultural and industrial supply; power generation; recreation; aesthetic enjoyment; navigation; and preservation and enhancement of fish, wildlife, and other aquatic resources or preserves. Existing beneficial uses are uses that were attained in the surface or ground water on or after November 28, 1975; and potential beneficial uses are uses that would probably develop in future years through the implementation of various control measures. "Beneficial Uses" are equivalent to "Designated Uses" under federal law. [California Water Code Section 13050(f)].

Best Management Practices (BMPs) - Defined in 40 CFR 122.2 as schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. In the case of municipal storm water discharge permits, BMPs may be used in place of numeric effluent limits.

Bioassessment - The use of biological community information to evaluate the biological integrity of a water body and its watershed. With respect to aquatic ecosystems, bioassessment is the collection and analysis of samples of the benthic macroinvertebrate community together with physical/habitat quality measurements associated with the sampling site and the watershed to evaluate the biological condition (i.e. biotic integrity) of a water body.

Biocriteria - Under the CWA, numerical values or narrative expressions that define a desired biological condition for a water body that are legally enforceable. The USEPA defines biocriteria as: "numerical values or narrative expressions that describe the reference biological integrity of aquatic communities inhabiting waters of a given designated aquatic life use... (that)...describe the characteristics of water body segments least impaired by human activities."

Biofiltration - Practices that use vegetation and amended soils to detain and treat runoff from impervious areas. Treatment is through filtration, infiltration, adsorption, ion exchange, and biological uptake of pollutants.

Biological Integrity - Defined in Karr J.R. and D.R. Dudley. 1981. Ecological perspective on water quality goals. *Environmental Management* 5:55-68 as: "A balanced, integrated, adaptive community of organisms having a species composition, diversity, and functional organization

ADMINISTRATIVE DRAFT

comparable to that of natural habitat of the region.” Also referred to as ecosystem health.

BMP Design Manual – A plan developed to eliminate, reduce, or mitigate the impacts of runoff from development projects, including Priority Development Projects.

Channel Rehabilitation and Improvement – Remedial measures or activities for the purpose of improving or restoring the environmental health of streams, channels or river systems. Techniques may vary from in-stream restoration techniques to off-line stormwater management practices installed in the system corridor or upland areas. Rehabilitation techniques may include, but are not limited to the following: riparian zone restoration, constructed wetlands, bank stabilization, channel modifications, and daylighting of drainage systems. Effectiveness may be measured in various manners, including: assessments of habitat, reduced streambank erosion, and restoration of water and sediment transport balance.

Clean Water Act Section 303(d) Water Body - An impaired water body in which water quality does not meet applicable water quality standards and/or is not expected to meet water quality standards, even after the application of technology based pollution controls required by the CWA. The discharge of runoff to these water bodies by the Copermitees is significant because these discharges can cause or contribute to violations of applicable water quality standards.

Construction Site – Any project, including projects requiring coverage under the Construction General Permit, that involves soil disturbing activities including, but not limited to, clearing, grading, disturbances to ground such as stockpiling, and excavation.

Contamination - As defined in the Porter-Cologne Water Quality Control Act, contamination is “an impairment of the quality of waters of the State by waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease. ‘Contamination’ includes any equivalent effect resulting from the disposal of waste whether or not waters of the State are affected.”

Copermittee – An incorporated city within the County of Orange, County of Riverside, or County of San Diego in the San Diego Region (**Region 9**), the County of Orange, the County of Riverside, the County of San Diego, the Orange County Flood Control District, the Riverside County Water Conservation and Flood Control District, the San Diego Regional Airport Authority, or the Unified Port District of San Diego.

Copermittees – All of the individual Copermittees, collectively.

Critical Channel Flow (Qc) – The channel flow that produces the critical shear stress that initiates bed movement or that erodes the toe of channel banks. When measuring Qc, it should be based on the weakest boundary material – either bed or bank.

Daily Discharge – Defined as either: (1) the total mass of the constituent discharged over the calendar day or any 24 hour period that reasonably represents a calendar day for purposes of sampling (as specified in the permit), for a constituent with limitations expressed in units of mass or; (2) the unweighted arithmetic mean measurement of the constituent over the day for a constituent with limitations expressed in other units of measurement (e.g. concentration.)

The Daily Discharge may be determined by the analytical results of a composite sample taken over the course of one day (a calendar day, or other 24 hour period other than a day), or by the arithmetic mean of analytical results from one or more grab samples taken over the course of a

ADMINISTRATIVE DRAFT

day.

Development Projects - Construction, rehabilitation, redevelopment, or reconstruction of any public or private ~~residential project, industrial, commercial, or any other~~ projects involving land disturbance activities.

Dry Season – The period of time from May 1 to September 30 ~~when rainfall is not expected to occur the San Diego~~.

Dry Weather – Weather is considered dry if the preceding 72 hours has been without measurable precipitation (> 0.1 inch).

Enclosed Bays – Enclosed bays are indentations along the coast that enclose an area of oceanic water within distinct headlands or harbor works. Enclosed bays include all bays where the narrowest distance between the headlands or outermost bay works is less than 75 percent of the greatest dimension of the enclosed portion of the bay. Enclosed bays do not include inland surface waters or ocean waters.

Erosion – When land is diminished or worn away due to wind, water, or glacial ice. Often the eroded debris (silt or sediment) becomes a pollutant via storm water runoff. Erosion occurs naturally but can be intensified by land clearing activities such as farming, development, road building, and timber harvesting.

Environmentally Sensitive Areas (ESAs) - Areas that include but are not limited to all Clean Water Act Section 303(d) impaired water bodies; areas designated as Areas of Special Biological Significance by the State Water Board and San Diego Water Board; State Water Quality Protected Areas; water bodies designated with the RARE beneficial use by the State Water Board and San Diego Water Board; areas designated as preserves or their equivalent under the Natural Communities Conservation Program within the Cities and County of Orange; and any other equivalent environmentally sensitive areas which have been identified by the Copermittees.

Estuaries – Waters, including coastal lagoons, located at the mouth of streams that serve as areas of mixing fresh and ocean waters. Coastal lagoons and mouths of streams that are temporarily separated from the ocean by sandbars shall be considered estuaries. Estuarine waters shall be considered to extend from a bay or the open ocean to a point upstream where there is no significant mixing of fresh water and ocean water. Estuaries do not include inland surface waters or ocean waters.

Existing Development – Any area that has been developed and exists for municipal, commercial, industrial, or residential purposes, uses, or activities. May include areas that are not actively used for its originally developed purpose, but may be re-purposed or redeveloped for another use or activity.

Flow Duration – The long-term period of time that flows occur above a threshold that causes significant sediment transport and may cause excessive erosion damage to creeks and streams (not a single storm event duration). The simplest way to visualize this is to consider a histogram of pre- and post-project flows using long-term records of hourly data. To maintain pre-development flow duration means that the total number of hours (counts) within each range of flows in a flow-duration histogram cannot increase between the pre- and post-development condition. Flow duration within the range of geomorphologically significant flows is important for

ADMINISTRATIVE DRAFT

managing erosion.

Grading - The cutting and/or filling of the land surface to a desired slope or elevation.

Hazardous Material – Any substance that poses a threat to human health or the environment due to its toxicity, corrosiveness, ignitability, explosive nature or chemical reactivity. These also include materials named by the USEPA in 40 CFR 116 to be reported if a designated quantity of the material is spilled into the waters of the U.S. or emitted into the environment.

Hazardous Waste - Hazardous waste is defined as “any waste which, under Section 600 of Title 22 of this code, is required to be managed according to Chapter 30 of Division 4.5 of Title 22 of this code” [CCR Title 22, Division 4.5, Chapter 11, Article 1].

Household Hazardous Waste – Paints, cleaning products, and other wastes generated during home improvement or maintenance activities.

Hydromodification – The change in the natural watershed hydrologic processes and runoff characteristics (i.e., interception, infiltration, overland flow, interflow and groundwater flow) caused by urbanization or other land use changes that result in increased stream flows and sediment transport. In addition, alteration of stream and river channels, such as stream channelization, concrete lining, installation of dams and water impoundments, and excessive streambank and shoreline erosion are also considered hydromodification, due to their disruption of natural watershed hydrologic processes.

Illicit Connection – Any connection to the MS4 that conveys an illicit discharge.

Illicit Discharge - Any discharge to the MS4 that is not composed entirely of storm water except discharges pursuant to a NPDES permit and discharges resulting from fire fighting activities [40 CFR 122.26(b)(2)].

Inactive Areas – Areas of construction activity that are not active and those that have been active and are not scheduled to be re-disturbed for at least 14 days.

Infiltration – Water other than wastewater that enters a sewer system (including sewer service connections and foundation drains) from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow [40 CFR 35.2005(20)]. In the context of low impact development, infiltration may also be defined as the percolation of water into the ground. Infiltration is often expressed as a rate (inches per hour), which is determined through an infiltration test.

Inland Surface Waters – Includes all surface waters of the State-U.S. that do not include the ocean, enclosed bays, or estuaries.

Jurisdictional Runoff Management Program Document – A written description of the specific jurisdictional runoff management measures and programs that each Copermittee will implement to comply with this Order and ensure that storm water pollutant discharges in runoff are reduced to the MEP and do not cause or contribute to a violation of water quality standards.

Low Impact Development (LID) – A storm water management and land development strategy that emphasizes conservation and the use of on-site natural features integrated with engineered, small-scale hydrologic controls to more closely reflect pre-development hydrologic

ADMINISTRATIVE DRAFT

functions.

Low Impact Development Best Management Practices (LID BMPs) – LID BMPs include schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States through storm water management and land development strategies that emphasize conservation and the use of on-site natural features integrated with engineered, small-scale hydrologic controls to more closely reflect pre-development hydrologic functions. LID BMPs include retention practices that do not allow runoff, such as infiltration, rain water harvesting and reuse, and evapotranspiration. LID BMPs also include flow-through practices such as biofiltration that may have some discharge of storm water following pollutant reduction.

Major Outfall – As defined in the Code of Federal Regulations, a major outfall is a MS4 outfall that discharges from a single pipe with an inside diameter of 36 inches or more or its equivalent (i.e. discharge from a single conveyance other than a circular pipe which is associated with a drainage area of more than 50 acres); or, for MS4s that receive storm water from lands zoned for industrial activity (based on comprehensive zoning plans or equivalent), a MS4 outfall that discharges from a single pipe with an inside diameter of 12 inches or more or from its equivalent (i.e. discharge from other than a circular pipe associated with a drainage area of 2 acres or more).

Maximum Daily Action Level (MDAL) –The highest allowable daily discharge of a pollutant, over a calendar day (or 24 hour period). For pollutants with action levels expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with action levels expressed in other units of measurement, the daily discharge is calculated as the arithmetic mean measurement of the pollutant over the day.

Maximum Extent Practicable (MEP) – The technology-based standard established by Congress in CWA section 402(p)(3)(B)(iii) for storm water that operators of MS4s must meet. Technology-based standards establish the level of pollutant reductions that dischargers must achieve, typically by treatment or by a combination of source control and treatment control BMPs. MEP generally emphasizes pollution prevention and source control BMPs primarily (as the first line of defense) in combination with treatment methods serving as a backup (additional line of defense). MEP considers economics and is generally, but not necessarily, less stringent than BAT. A definition for MEP is not provided either in the statute or in the regulations. Instead the definition of MEP is dynamic and will be defined by the following process over time: municipalities propose their definition of MEP by way of their runoff management programs. Their total collective and individual activities conducted pursuant to the runoff management programs becomes their proposal for MEP as it applies both to their overall effort, as well as to specific activities (e.g., MEP for street sweeping, or MEP for MS4 maintenance). In the absence of a proposal acceptable to the San Diego Water Board, the San Diego Water Board defines MEP.

In a memo dated February 11, 1993, entitled "Definition of Maximum Extent Practicable," Elizabeth Jennings, Senior Staff Counsel, SWRCB addressed the achievement of the MEP standard as follows:

"To achieve the MEP standard, municipalities must employ whatever Best Management Practices (BMPs) are technically feasible (i.e., are likely to be effective) and are not cost prohibitive. The major emphasis is on technical feasibility. Reducing pollutants to the MEP means choosing effective BMPs, and rejecting applicable BMPs only where other effective

ADMINISTRATIVE DRAFT

BMPs will serve the same purpose, or the BMPs would not be technically feasible, or the cost would be prohibitive. In selecting BMPs to achieve the MEP standard, the following factors may be useful to consider:

- a. *Effectiveness: Will the BMPs address a pollutant (or pollutant source) of concern?*
- b. *Regulatory Compliance: Is the BMP in compliance with storm water regulations as well as other environmental regulations?*
- c. *Public Acceptance: Does the BMP have public support?*
- d. *Cost: Will the cost of implementing the BMP have a reasonable relationship to the pollution control benefits to be achieved?*
- e. *Technical Feasibility: Is the BMP technically feasible considering soils, geography, water resources, etc.?*

The final determination regarding whether a municipality has reduced pollutants to the maximum extent practicable can only be made by the Regional or State Water Boards, and not by the municipal discharger. If a municipality reviews a lengthy menu of BMPs and chooses to select only a few of the least expensive, it is likely that MEP has not been met. On the other hand, if a municipal discharger employs all applicable BMPs except those where it can show that they are not technically feasible in the locality, or whose cost would exceed any benefit derived, it would have met the standard. Where a choice may be made between two BMPs that should provide generally comparable effectiveness, the discharger may choose the least expensive alternative and exclude the more expensive BMP. However, it would not be acceptable either to reject all BMPs that would address a pollutant source, or to pick a BMP based solely on cost, which would be clearly less effective. In selecting BMPs the municipality must make a serious attempt to comply and practical solutions may not be lightly rejected. In any case, the burden would be on the municipal discharger to show compliance with its permit. After selecting a menu of BMPs, it is the responsibility of the discharger to ensure that all BMPs are implemented."

Monitoring Year – The monitoring year begins annually on July 1st and ends on June 30th.

Municipal Separate Storm Sewer System (MS4) – A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains): (i) Owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or designated and approved management agency under section 208 of the CWA that discharges to waters of the United States; (ii) Designated or used for collecting or conveying storm water; (iii) Which is not a combined sewer; (iv) Which is not part of the Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.26. Co-permittees need only comply with permit conditions relating to discharges from the municipal separate storm sewers for which they are operators." 40 CFR §122.21(a)(vi).

National Pollutant Discharge Elimination System (NPDES) - The national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under Sections 307, 318, 402, and 405 of the CWA.

Non-Storm Water - All discharges to and from a MS4 that do not originate from precipitation

ADMINISTRATIVE DRAFT

events (i.e., all discharges from a MS4 other than storm water). Non-storm water includes illicit discharges and NPDES permitted discharges.

Nuisance - As defined in the Porter-Cologne Water Quality Control Act, a nuisance is “anything which meets all of the following requirements: 1) Is injurious to health, or is indecent, or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property. 2) Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal. 3) Occurs during, or as a result of, the treatment or disposal of wastes.”

Ocean Waters – the territorial marine waters of the State as defined by California law to the extent these waters are outside of enclosed bays, estuaries, and coastal lagoons. Discharges to ocean waters are regulated in accordance with the State Board’s California Ocean Plan.

Order – Unless otherwise specified, refers to this Order, Order No. R9-2012-0011 (NPDES No. CAS0109266)

~~**Permanent BMP Sizing Criteria Design Manual**—A plan developed to eliminate, reduce, or mitigate the impacts of runoff from development projects, including Priority Development Projects.~~

Person - A person is defined as an individual, association, partnership, corporation, municipality, State or Federal agency, or an agent or employee thereof [40 CFR 122.2].

Point Source - Any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operations, landfill leachate collection systems, vessel, or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.

Pollutant - Any agent that may cause or contribute to the degradation of water quality such that a condition of pollution or contamination is created or aggravated.

Pollution - As defined in the Porter-Cologne Water Quality Control Act, pollution is “the alteration of the quality of the waters of the State by waste, to a degree that unreasonably affects the either of the following: 1) The waters for beneficial uses; or 2) Facilities that serve these beneficial uses.” Pollution may include contamination.

Pollution Prevention - Pollution prevention is defined as practices and processes that reduce or eliminate the generation of pollutants, in contrast to source control BMPs, treatment control BMPs, or disposal.

Permanent BMPs - A subset of BMPs including structural and non-structural controls which detain, retain, filter, remove, or educate to prevent the release of pollutants to surface waters from development projects in perpetuity, after construction of a project is completed.

Pre-Development Runoff Conditions (Discharge Rates, Durations, Etc.) – Runoff conditions that existed onsite before the existing development was constructed, or exists onsite before planned development activities occur. ~~This definition includes natural watershed hydrology before any human induced land alterations.~~

ADMINISTRATIVE DRAFT

Priority Development Projects - New development and redevelopment projects defined under Provision E.3.b of Order No. R9-2012-0011.

Properly Designed – Designed in accordance with the Copermittee's BMP design manual and/or any appropriate design requirements set forth by the Copermittee and based on widely accepted design criteria.

Rainy Season (aka Wet Season) – The period of time from October 1 to April 30 ~~when the San Diego Region experiences the most rainfall.~~

Receiving Waters – Waters of the United States.

Receiving Water Limitations - Waste discharge requirements issued by the San Diego Water Board typically include both: (1) "Effluent Limitations" (or "Discharge Limitations") that specify the technology-based or water-quality-based effluent limitations; and (2) "Receiving Water Limitations" that specify the water quality objectives in the Basin Plan as well as any other limitations necessary to attain those objectives. In summary, the "Receiving Water Limitations" provision is the provision used to implement the requirement of CWA section 301(b)(1)(C) that NPDES permits must include any more stringent limitations necessary to meet water quality standards.

Redevelopment - The creation, addition, and or replacement of impervious surface on an already developed site. Examples include the expansion of a building footprint, road widening, the addition to or replacement of a structure, and creation or addition of impervious surfaces. Replacement of impervious surfaces includes any activity that is not part of a routine maintenance activity where impervious material(s) are removed, exposing underlying soil during construction. Redevelopment does not include trenching and resurfacing associated with utility work; parking lots; resurfacing existing roadways; cutting and reconfiguring of surface parking lots; new sidewalk construction, pedestrian ramps, or bike lane on existing roads; and routine replacement of damaged pavement, such as pothole repair.

Retain –Keep or hold in a particular place, condition, or position without discharge to surface waters.

Retrofit – Retrofit is defined as a stormwater management practice (usually structural) put into place after development has occurred in watersheds where practices previously did not exist or are ineffective. The purpose of retrofits is to improve water quality, protect downstream channels, reduce flooding, or meet other specific objectives. Some examples of retrofits include, but are not limited to the following: green roofs, downspout and impervious cover disconnection, permeable pavement, bioretention, rain barrels, rain gardens, vacant lot stabilization, trash area enclosures, additional trash and waste disposal containers.

Runoff - All flows in a storm water conveyance system that consists of the following components: (1) storm water (wet weather flows) and (2) non-storm water including dry weather flows.

San Diego Water Board – As used in this document the term "San Diego Water Board" is synonymous with the term "Regional Board" as defined in Water Code section 13050(b) and is intended to refer to the California Regional Water Quality Control Board for the San Diego

ADMINISTRATIVE DRAFT

Region as specified in Water Code Section 13200.

Sediment - Soil, sand, and minerals washed from land into water. Sediment resulting from anthropogenic sources (i.e. human induced land disturbance activities) is considered a pollutant. This Order regulates only the discharges of sediment from anthropogenic sources and does not regulate naturally occurring sources of sediment. Sediment can destroy fish-nesting areas, clog animal habitats, and cloud waters so that sunlight does not reach aquatic plants.

Shared Treatment Control BMP - BMPs used by multiple developments to infiltrate, filter, or treat the required volume or flow prior to discharge to a receiving water. This could include, for example, a treatment BMP at the end of an enclosed storm drain that collects runoff from several commercial developments.

Source Control BMP – Land use or site planning practices, or structural or nonstructural measures that aim to prevent runoff pollution by reducing the potential for contamination at the source of pollution. Source control BMPs minimize the contact between pollutants and runoff.

State Water Quality Protection Area – A nonterrestrial marine or estuarine area designated to protect marine species or biological communities from an undesirable alteration in natural water quality, including, but not limited to, areas of special biological significance that have been designated by the State Water Board through its water quality control planning process. Areas of special biological significance are a subset of State Water Quality Protection Areas, and require special protection as determined by the State Water Resources Control Board pursuant to the California Ocean Plan adopted and reviewed pursuant to Article 4 (commencing with Section 13160) of Chapter 3 of Division 7 of the California Water Code and pursuant to the Water Quality Control Plan for Control of Temperature in the Coastal and Interstate Waters and Enclosed Bays and Estuaries of California (California Thermal Plan) adopted by the State Water Board.

Storm Water – Per 40 CFR 122.26(b)(13), means storm water runoff, snowmelt runoff and surface runoff and drainage. ~~Surface runoff and drainage pertains to runoff and drainage resulting from precipitation events.~~

Structural BMP – Any structural control which detains, retains, or filters, to reduce the release of pollutants to surface waters from development projects (e.g. treatment control BMPs) which remains after construction.

Total Maximum Daily Load (TMDL) - The maximum amount of a pollutant that can be discharged into a water body from all sources (point and non-point) and still maintain water quality standards. Under CWA section 303(d), TMDLs must be developed for all water bodies that do not meet water quality standards after application of technology-based controls.

Toxicity - Adverse responses of organisms to chemicals or physical agents ranging from mortality to physiological responses such as impaired reproduction or growth anomalies). The water quality objectives for toxicity provided in the Basin Plan, state in part...“All waters shall be free of toxic substances in concentrations that are toxic to, or that produce detrimental physiological responses in human, plant, animal, or aquatic life....The survival of aquatic life in surface waters subjected to a waste discharge or other controllable water quality factors, shall not be less than that for the same water body in areas unaffected by the waste discharge”.

ADMINISTRATIVE DRAFT

Treatment Control BMP – Any engineered system designed to remove pollutants by simple gravity settling of particulate pollutants, filtration, biological uptake, media absorption or any other physical, biological, or chemical process.

Unpaved Road – Any long, narrow stretch without pavement used for traveling by motor passenger vehicles between two or more points. Unpaved roads are generally constructed of dirt, gravel, aggregate or macadam and may be improved or unimproved.

Waste - As defined in CWC Section 13050(d), “waste includes sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for purposes of, disposal.”

Article 2 of CCR Title 23, Chapter 15 (Chapter 15) contains a waste classification system that applies to solid and semi-solid waste, which cannot be discharged directly or indirectly to water of the state and which therefore must be discharged to land for treatment, storage, or disposal in accordance with Chapter 15. There are four classifications of waste (listed in order of highest to lowest threat to water quality): hazardous waste, designated waste, non-hazardous solid waste, and inert waste.

Water Quality Objective - Numerical or narrative limits on constituents or characteristics of water designated to protect designated beneficial uses of the water. [California Water Code Section 13050 (h)]. California’s water quality objectives are established by the State and Regional Water Boards in the Water Quality Control Plans. Numeric or narrative limits for pollutants or characteristics of water designed to protect the beneficial uses of the water. In other words, a water quality objective is the maximum concentration of a pollutant that can exist in a receiving water and still generally ensure that the beneficial uses of the receiving water remain protected (i.e., not impaired). Since water quality objectives are designed specifically to protect the beneficial uses, when the objectives are violated the beneficial uses are, by definition, no longer protected and become impaired. This is a fundamental concept under the Porter Cologne Act. Equally fundamental is Porter Cologne’s definition of pollution. A condition of pollution exists when the water quality needed to support designated beneficial uses has become unreasonably affected or impaired; in other words, when the water quality objectives have been violated. These underlying definitions (regarding beneficial use protection) are the reason why all waste discharge requirements implementing the federal NPDES regulations require compliance with water quality objectives. (Water quality objectives are also called water quality criteria in the CWA.)

Water Quality Standards - Water quality standards, as defined in Clean Water Act section 303(c) consist of the beneficial uses (e.g., swimming, fishing, municipal drinking water supply, etc.) of a water body and criteria (referred to as water quality objectives in the California Water Code) necessary to protect those uses. Under the Water Code, the water boards establish beneficial uses and water quality objectives in water quality control or basin plans. Together with an anti-degradation policy, these beneficial uses and water quality objectives serve as water quality standards under the Clean Water Act. In Clean Water Act parlance, state beneficial uses are called “designated uses” and state water quality objectives are called “criteria.” Throughout this Order, the relevant term is used depending on the statutory scheme.

Waters of the State - Any water, surface or underground, including saline waters within the boundaries of the State [CWC section 13050 (e)]. The definition of the Waters of the State is

ADMINISTRATIVE DRAFT

broader than that for the Waters of the United States in that all water in the State is considered to be a Waters of the State ~~regardless of circumstances or condition~~. Under this definition, a portions of the MS4 may is always considered be considered to be a Waters of the State. However, man-made portions of the MS4 constructed for the sole purpose flow and/or pollutant reduction are not considered waters of the state.

Waters of the United States - As defined in the 40 CFR 122.2, the Waters of the U.S. are defined as: "(a) All waters, which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide; (b) All interstate waters, including interstate "wetlands;" (c) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, "wetlands," sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation or destruction of which would affect or could affect interstate or foreign commerce including any such waters: (1) Which are or could be used by interstate or foreign travelers for recreational or other purposes; (2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or (3) Which are used or could be used for industrial purposes by industries in interstate commerce; (d) All impoundments of waters otherwise defined as waters of the United States under this definition; (e) Tributaries of waters identified in paragraphs (a) through (d) of this definition; (f) The territorial seas; and (g) "Wetlands" adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a) through (f) of this definition. Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with the EPA."

Watershed - That geographical area which drains to a specified point on a water course, usually a confluence of streams or rivers (also known as drainage area, catchment, or river basin).

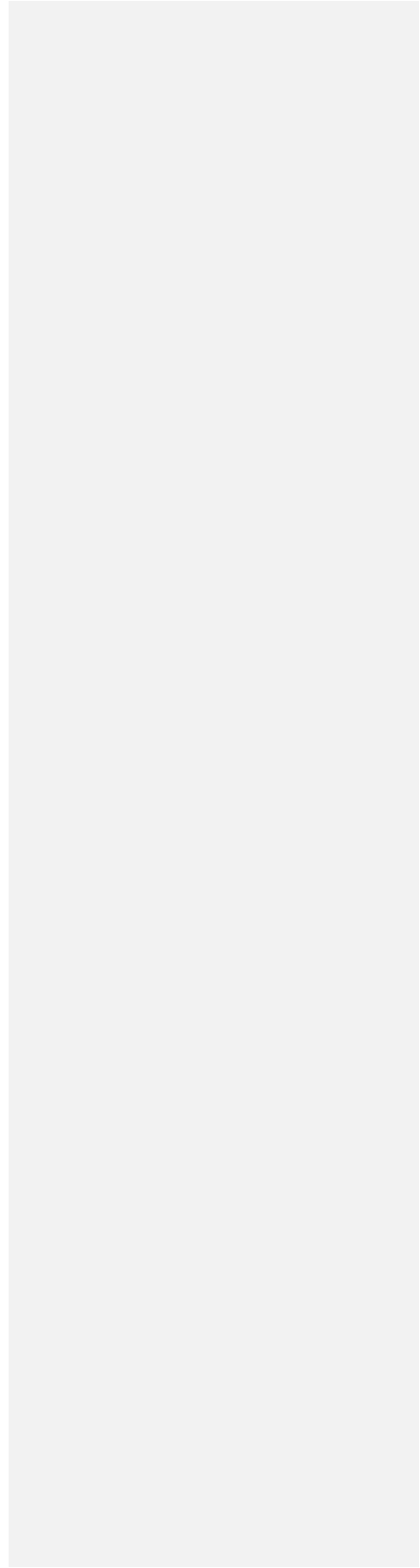
Wet Season (aka Rainy Season) – The period of time from October 1 to April 30 when the San Diego Region experiences the most rainfall.

Wet Weather – Weather is considered wet if there is a storm event of 0.1 inches and greater and the following preceded by 72 hours of dry weather, unless defined in another manner within another regulatory mechanism such as a TMDL.

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ATTACHMENT D
JURISDICTIONAL RUNOFF MANAGEMENT PROGRAM
ANNUAL REPORT FORM

Internal Draft



**JURISDICTIONAL RUNOFF MANAGEMENT PROGRAM
ANNUAL REPORT FORM
FY _____**

I. COPERMITTEE INFORMATION	
Copermittee Name:	
Copermittee Primary Contact Name:	
Copermittee Primary Contact Information:	
Address:	
City:	County: State: Zip:
Telephone:	Fax: Email:
II. LEGAL AUTHORITY	
Has the Copermittee established adequate legal authority within its jurisdiction to control pollutant discharges into and from its MS4 that complies with Order No. R9-2012-0011?	YES <input type="checkbox"/> NO <input type="checkbox"/>
A Principal Executive Officer, Ranking Elected Official, or Duly Authorized Representative has certified that the Copermittee obtained and maintains adequate legal authority?	YES <input type="checkbox"/> NO <input type="checkbox"/>
III. JURISDICTIONAL RUNOFF MANAGEMENT PROGRAM DOCUMENT UPDATE	
Was an update of the jurisdictional runoff management program document required or recommended by the San Diego Water Board?	YES <input type="checkbox"/> NO <input type="checkbox"/>
If YES to the question above, did the Copermittee update its jurisdictional runoff management program document and make it available on the Regional Clearinghouse?	YES <input type="checkbox"/> NO <input type="checkbox"/>
IV. ILLICIT DISCHARGE DETECTION AND ELIMINATION PROGRAM	
Has the Copermittee implemented a program to actively detect and eliminate illicit discharges and connections to its MS4 that complies with Order No. R9-2012-0011?	YES <input type="checkbox"/> NO <input type="checkbox"/>
Number of non-storm water discharges reported by the public	
Number of non-storm water discharges detected by Copermittee staff or contractors	
Number of non-storm water discharges investigated by the Copermittee	
Number of sources of non-storm water discharges identified	
Number of non-storm water discharges eliminated	
Number of sources of illicit discharges or connections identified	
Number of illicit discharges or connections eliminated	
Number of enforcement actions issued	
Number of high level enforcement actions issued	
V. DEVELOPMENT PLANNING PROGRAM	
Has the Copermittee implemented a development planning program that complies with Order No. R9-2012-0011?	YES <input type="checkbox"/> NO <input type="checkbox"/>
Was an update to the Permanent-BMP Sizing Criteria -Design Manual required or recommended by the San Diego Water Board?	YES <input type="checkbox"/> NO <input type="checkbox"/>
If YES to the question above, did the Copermittee update its Permanent-BMP Sizing Criteria -Design Manual and make it available on the Regional Clearinghouse?	YES <input type="checkbox"/> NO <input type="checkbox"/>
Number of proposed development projects in review	
Number of Priority Development Projects in review	
Number of Priority Development Projects approved	
Number of approved Priority Development Projects exempt from any BMP requirements	
Number of approved Priority Development Projects requiring mitigation	
Number of Priority Development Projects granted occupancy	
Number of completed Priority Development Projects in inventory	
Number of high priority Priority Development Project permanent-structural BMP inspections	
Number of Priority Development Project permanent-structural BMP violations	
Number of enforcement actions issued	

**JURISDICTIONAL RUNOFF MANAGEMENT PROGRAM
ANNUAL REPORT FORM**

Number of high level enforcement actions issued
 FY

VI. CONSTRUCTION MANAGEMENT PROGRAM

Has the Copermittee implemented a construction management program that complies with Order No. R9-2012-0011? YES
 NO

Number of construction sites in inventory	<input type="text"/>
Number of active construction sites in inventory	<input type="text"/>
Number of inactive construction sites in inventory	<input type="text"/>
Number of construction sites closed/completed during reporting period	<input type="text"/>
Number of construction site inspections	<input type="text"/>
Number of construction site violations	<input type="text"/>
Number of enforcement actions issued	<input type="text"/>
Number of high level enforcement actions issued	<input type="text"/>

VII. EXISTING DEVELOPMENT MANAGEMENT PROGRAM

Has the Copermittee implemented an existing development management program that complies with Order No. R9-2012-0011? YES
 NO

	Municipal	Commercial	Industrial	Residential
Number of existing developments in inventory	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Number of existing development inspections	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Number of follow-up inspections	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Number of existing development violations	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Number of enforcement actions issued	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Number of high level enforcement actions issued	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

VIII. PUBLIC EDUCATION AND PARTICIPATION

Has the Copermittee implemented a public education program that complies with Order No. R9-2012-0011? YES
 NO

Has the Copermittee implemented a mechanism for public participation and where necessary intergovernmental coordination that complies with Order No. R9-2012-0011? YES
 NO

IX. FISCAL ANALYSIS

Has the Copermittee attached to this form a summary of its fiscal analysis that complies with Order No. R9-2012-0011? YES
 NO

X. CERTIFICATION

I Principal Executive Officer Ranking Elected Official Duly Authorized Representative] certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

Signature

Date

Print Name

Title

Telephone Number

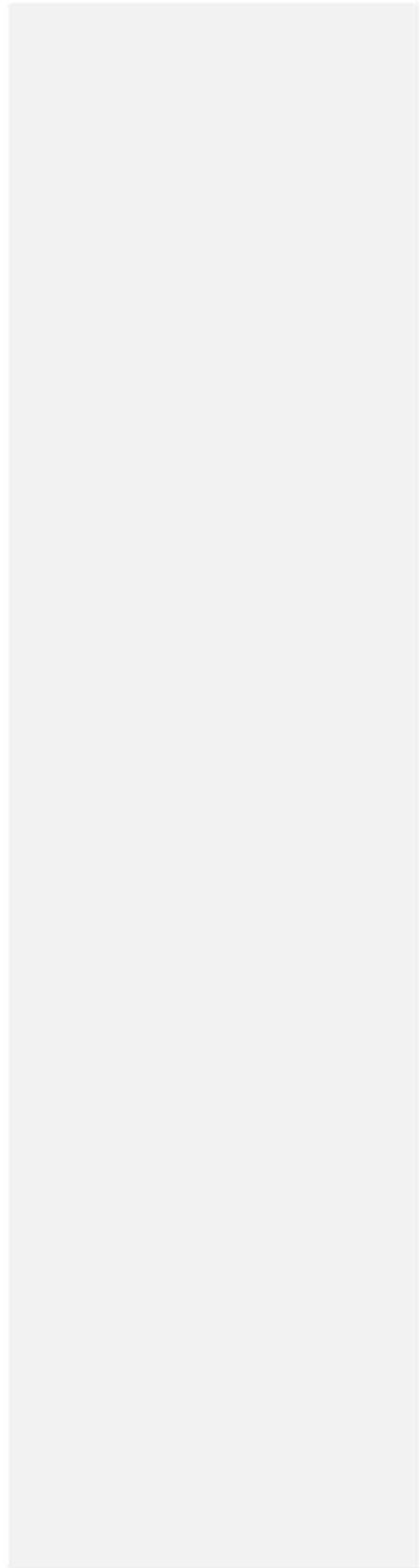
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Tentative Order No. R9-2012-0011

D-3

Month Day, 2012

**JURISDICTIONAL RUNOFF MANAGEMENT PROGRAM
ANNUAL REPORT FORM**



ADMINISTRATIVE DRAFT**ATTACHMENT E****SPECIFIC PROVISIONS FOR TOTAL MAXIMUM DAILY LOADS
APPLICABLE TO ORDER NO. R9-2012-0011**

These provisions implement Total Maximum Daily Loads (TMDLs), adopted by the San Diego Water Board and approved by USEPA under Clean Water Act section 303(c), which are applicable to discharges regulated under this Order. The provisions and schedules for implementation of the TMDLs described below must be incorporated into the Water Quality Improvement Plans and monitoring requirements, required pursuant to Provisions B and D of this Order, respectively, for the specified Watershed Management Areas.

1. Total Maximum Daily Load for Diazinon in Chollas Creek Watershed Resolution No. R9-2002-0123
2. Total Maximum Daily Loads for Dissolved Copper in Shelter Island Yacht Basin Resolution No. R9-2005-0019
- ~~3. Total Maximum Daily Loads for Total Nitrogen and Total Phosphorus in Rainbow Creek Watershed Resolution No. R9-2005-0036~~
- 4.3. Total Maximum Daily Loads for Dissolved Copper, Lead, and Zinc in Chollas Creek Resolution No. R9-2007-0043
- 5.4. Total Maximum Daily Loads for Indicator Bacteria, Baby Beach in Dana Point Harbor and Shelter Island Shoreline Park in San Diego Bay Resolution No. R9-2008-0027
- 6.5. Revised Total Maximum Daily Loads for Indicator Bacteria, Project I – Twenty Beaches and Creeks in the San Diego Region (Including Tecolote Creek) Resolution No. R9-2010-0001

ADMINISTRATIVE DRAFT**1. Total Maximum Daily Load for Diazinon in Chollas Creek Watershed****a. APPLICABILITY**

- (1) TMDL Basin Plan Amendment: Resolution No. R9-2002-0123
- (2) TMDL Adoption and Approval Dates:
- | | |
|---------------------------------------------|--------------------|
| San Diego Water Board Adoption Date: | August 14, 2002 |
| State Water Board Approval Date: | July 16, 2003 |
| Office of Administrative Law Approval Date: | September 11, 2003 |
| US EPA Approval Date: | November 3, 2003 |
- (3) TMDL Effective Date: September 11, 2003
- (4) Watershed Management Area: San Diego Bay
- (5) Water Body: Chollas Creek
- (6) Responsible Copermittees: City of La Mesa, City of Lemon Grove, City of San Diego, County of San Diego, Unified Port District of San Diego

b. WATER QUALITY BASED EFFLUENT LIMITATIONS

The WQBELs for Chollas Creek consist of the following:

(1) Receiving Water Limitations

Discharges from the MS4s must not cause or contribute to the violation of the following receiving water limitations by the end of the compliance schedule under Specific Provision 1.c:

Table 1.1

Receiving Water Limitations as Concentrations in Chollas Creek

Constituent	Exposure Duration	Receiving Water Limitation	Averaging Period
Diazinon	Acute	0.08 µg/L	1 hour
	Chronic	0.05 µg/L	4 days

(2) Effluent Limitations

Discharges from the MS4s must not contain concentrations that exceed the following effluent limitations by the end of the compliance schedule under Specific Provision 1.c:

Table 1.2

Effluent Limitations as Concentrations in MS4 Discharges to Chollas Creek

Constituent	Exposure Duration	Effluent Limitation	Averaging Period
Diazinon	Acute	0.072 µg/L	1 hour
	Chronic	0.045 µg/L	4 days

ATTACHMENT E: SPECIFIC PROVISIONS FOR TOTAL MAXIMUM DAILY LOADS

1. Total Maximum Daily Load for Diazinon in Chollas Creek Watershed

ADMINISTRATIVE DRAFT**(3) Best Management Practices**

The following BMPs for Chollas Creek ~~may~~**must** be incorporated into the Water Quality Improvement Plan for the San Diego Bay Watershed Management Area and implemented by the Responsible Copermittees:

- ~~(a) The Responsible Copermittees must implement BMPs capable of achieving the WQBELs under Specific Provision 1.b for Chollas Creek.~~
- ~~(b) The Responsible Copermittees must implement the Diazinon Toxicity Control Plan and Diazinon Public Outreach/Education Program as described in the report titled, *Technical Report for Total Maximum Daily Load for Diazinon in Chollas Creek Watershed, San Diego County*, dated August 14, 2002, including subsequent modifications, in order to achieve the WQBELs under Specific Provision 1.b.~~
- ~~(c)~~**(a)** The Responsible Copermittees should coordinate any ~~implemented~~**the** BMPs to address this TMDL with Caltrans ~~wherever and whenever~~**as** possible.

c. COMPLIANCE SCHEDULE

The Responsible Copermittees were required to achieve their WLA by December 31, 2010. The Responsible Copermittees must be in compliance with the WQBELs under Specific Provision 1.b.

d. COMPLIANCE DETERMINATION

Compliance with WQBELs or WLAs may be demonstrated via any one of the following methods:

- (1) There is no discharge from the MS4, or
(2) Applicable effluent limitations are met, or
(3) Receiving waters meet the applicable receiving water limitations or water quality objective, or
(4) Loading from the MS4 is such that it does not cause water quality objective exceedances, or
(5) Implementation of a Water Quality Improvement Plan determined by the Regional Board Executive Officer to comply with Provision II.A as described in Provision II.A.4.

d.e. SPECIFIC MONITORING AND ASSESSMENT REQUIREMENTS

- (a) The Responsible Copermittees must implement the monitoring and assessment requirements issued under Investigation Order No. R9-2004-0277, *California Department of Transportation and San Diego Municipal Separate Storm Sewer System Copermittees Responsible for the Discharge of Diazinon into the Chollas Creek Watershed*. The monitoring reports

ATTACHMENT E: SPECIFIC PROVISIONS FOR TOTAL MAXIMUM DAILY LOADS
1. Total Maximum Daily Load for Diazinon in Chollas Creek Watershed

ADMINISTRATIVE DRAFT

required under Investigation Order No. R9-2004-0277 must be submitted as part of the Annual Reports required under Provision F.3.b of this Order.

~~(b) The Responsible Copermittees must monitor the effluent of the MS4 outfalls for diazinon within the Chollas Creek watershed, and calculate or estimate the monthly and annual diazinon loads, in accordance with the requirements of Provisions D.1, D.4.a.(1)(b), and D.4.a.(3)(b) of this Order. The monitoring and assessment results must be submitted as part of the Annual Reports required under Provision F.3.b of this Order.~~

ADMINISTRATIVE DRAFT**2. Total Maximum Daily Loads for Dissolved Copper in Shelter Island Yacht Basin****a. APPLICABILITY**

(1) TMDL Basin Plan Amendment: Resolution No. R9-2005-0019

(2) TMDL Adoption and Approval Dates:

San Diego Water Board Adoption Date:	February 9, 2005
State Water Board Approval Date:	September 22, 2005
Office of Administrative Law Approval Date:	December 2, 2005
US EPA Approval Date:	February 8, 2006

(3) TMDL Effective Date: December 2, 2005

(4) Watershed Management Area: San Diego Bay

(5) Water Body: Shelter Island Yacht Basin

(6) Responsible Copermittees: City of San Diego, [San Diego Unified Port District](#)

b. WATER QUALITY BASED EFFLUENT LIMITATIONS

The WQBELs for Shelter Island Shoreline Park consist of the following:

(1) Receiving Water Limitations

Discharges from the MS4s must not cause or contribute to the violation of the following receiving water limitations by the end of the compliance schedule under Specific Provision 2.c:

Table 2.1

Receiving Water Limitations as Concentrations in Shelter Island Yacht Basin

Constituent	Exposure Duration	Effluent Limitation	Averaging Period
Dissolved Copper	Acute	4.8 µg/L	1 hour
	Chronic	3.1 µg/L	4 days

(2) Effluent Limitations

Discharges from the MS4s must not contain pollutant loads that exceed the following effluent limitations by the end of the compliance schedule under Specific Provision 2.c:

Table 2.2

Effluent Limitations as Annual Loads in MS4 Discharges to Shelter Island Yacht Basin

Constituent	Effluent Limitation
Dissolved Copper	30 kg/yr

ADMINISTRATIVE DRAFT**(3) Best Management Practices**

The Responsible Copermittees ~~may~~ must implement BMPs to support the achievement of ~~capable of achieving~~ the WQBELs under Specific Provision 2.b for Shelter Island Yacht Basin

c. COMPLIANCE SCHEDULE

The Responsible Copermittees ~~are~~ was required to achieve the respective its WLAs ~~upon the effective date of the TMDL, December 2, 2005~~ by December 2, 2022. The Responsible Copermittees s must be in compliance with the WQBELs under Specific Provision 2.b.

d. COMPLIANCE DETERMINATION

Compliance with WQBELs or WLAs may be demonstrated via any one of the following methods:

- (6) There is no discharge from the MS4, or
- (7) Applicable effluent limitations are met, or
- (8) Receiving waters meet the applicable receiving water limitations or water quality objective, or
- (9) Loading from the MS4 is such that it does not cause water quality objective exceedances, or
- (10) Implementation of a Water Quality Improvement Plan determined by the Regional Board Executive Officer to comply with Provision II.A as described in Provision II.A.4.

d.e. SPECIFIC MONITORING AND ASSESSMENT REQUIREMENTS

The Responsible Copermittees s must implement the monitoring and assessment requirements issued under Order No. R9-2005-0019. monitor the effluent of its MS4 outfalls for dissolved copper, and calculate or estimate the monthly and annual dissolved copper loads, in accordance with the requirements of Provisions D.1, D.4.a.(1)(b), and D.4.a.(3)(b) of this Order. The monitoring and assessment results must be submitted as part of the Annual Reports required under Provision F.3.b of this Order.

ADMINISTRATIVE DRAFT

3. Total Maximum Daily Loads for Total Nitrogen and Total Phosphorus in Rainbow Creek Watershed

a. APPLICABILITY

- (1) ~~TMDL Basin Plan Amendment: Resolution No. R9-2005-0036~~
- (2) ~~TMDL Adoption and Approval Dates:~~
 - San Diego Water Board Adoption Date: ~~February 9, 2005~~
 - State Water Board Approval Date: ~~November 16, 2005~~
 - Office of Administrative Law Approval Date: ~~February 1, 2006~~
 - US EPA Approval Date: ~~March 22, 2006~~
- (3) ~~TMDL Effective Date: February 1, 2006~~
- (4) ~~Watershed Management Area: Santa Margarita River~~
- (5) ~~Water Body: Rainbow Creek~~
- (6) ~~Responsible Copermittee: County of San Diego~~

b. WATER QUALITY BASED EFFLUENT LIMITATIONS

The ~~WQBELs~~ for Rainbow Creek consist of the following

(1) Receiving Water Limitations

~~Discharges from the MS4s must not have a reasonable potential to cause or contribute to the violation of the following receiving water limitations, by the end of the compliance schedule under Specific Provision 3.c.(1):~~

Table 3.1
Receiving Water Limitations as Concentrations in Rainbow Creek

Constituent	Receiving Water Limitation
Nitrate (as N)	10 mg/L
Total Nitrogen	1 mg/L
Total Phosphorus	0.1 mg/L

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ADMINISTRATIVE DRAFT

~~(2) Effluent Limitations~~

~~(a) Discharges from the MS4s must not contain concentrations that exceed the following effluent limitations by the end of the compliance schedule under Specific Provision 3.c.(1):~~

Table 3.2
Effluent Limitations as Concentrations in MS4 Discharges to Rainbow Creek

Constituent	Effluent Limitation
Nitrate (as N)	10 mg/L
Total Nitrogen	1 mg/L
Total Phosphorus	0.1 mg/L

~~(b) Pollutant loads from given land uses discharging to and from the MS4s must not exceed the following effluent limitations by the end of the compliance schedule under Specific Provision 3.c.(1):~~

Table 3.3
Effluent Limitations as Annual Loads in MS4 Discharges to Rainbow Creek

Land Use	Total N	Total P
Commercial nurseries	116 kg/yr	3 kg/yr
Park	3 kg/yr	0.1 kg/yr
Residential areas	149 kg/yr	12 kg/yr
Urban areas	27 kg/yr	6 kg/yr

~~Interim effluent limitations expressed as pollutant loads are given in the compliance schedule under Specific Provision 3.0.~~

~~(3) Best Management Practices~~

~~(a) The Responsible Copermitttee must implement BMPs capable of achieving the WQBELs under Specific Provision 3.b for Rainbow Creek.~~

~~(b) The Responsible Copermitttee should coordinate the BMPs to address this TMDL with Caltrans and other sources wherever and whenever possible.~~

ADMINISTRATIVE DRAFT**G. COMPLIANCE SCHEDULE****(1) WLA Compliance Date**

The Responsible Copermittee is required to achieve its WLAs, thus must be in compliance with the WQBELs under Specific Provision 3.b, by December 31, 2021.

(2) Interim Compliance Requirements**Table 3.4**

Interim Effluent Limitations as Annual Loads in MS4 Discharges from Specific Land Uses to Rainbow Creek

Land-Use	Total N Interim Effluent Limitations (kg/yr)			Total P Interim Effluent Limitations (kg/yr)		
	Interim Compliance Date			Interim Compliance Date		
	2009	2013	2017	2009	2013	2017
Commercial nurseries	399	299	196	20	16	10
Park	5	3	3	0.15	0.10	0.10
Residential areas	507	390	260	99	74	47
Urban areas	40	27	27	9	6	6

COMPLIANCE DETERMINATION

Compliance may be demonstrated via any one of the following methods:

- ~~— There is no discharge from the MS4, or~~
- ~~— Applicable effluent limitations are met, or~~
- ~~— Receiving waters meet the applicable receiving water limitations or water quality objective, or~~
- ~~— Loading from the MS4 is such that it does not cause water quality objective exceedances, or~~
- ~~— For Permittee(s) that are implementing a Regional Board approved WQIP, WQBELs will be implemented as BMPs and compliance will be based upon implementing all provisions of the WQIP in accordance with the approved milestones and schedule.~~

d. SPECIFIC MONITORING AND ASSESSMENT REQUIREMENTS

The Responsible Copermittee must implement the Sampling and Analysis Plan for Rainbow Creek Nutrient Reduction TMDL Implementation Water Quality Monitoring, dated January 2010. The results of any monitoring conducted during the reporting period, and assessment of whether the interim and final WQBELs have been achieved must be submitted as part of the Annual Reports required under Provision F.3.b of this Order.

ADMINISTRATIVE DRAFT

4.3. Total Maximum Daily Loads for Dissolved Copper, Lead, and Zinc in Chollas Creek

a. APPLICABILITY

(1) TMDL Basin Plan Amendment: Resolution No. R9-2007-0043

(2) TMDL Adoption and Approval Dates:

San Diego Water Board Adoption Date: June 13, 2007
State Water Board Approval Date: July 15, 2008
Office of Administrative Law Approval Date: October 22, 2008
US EPA Approval Date: December 18, 2008

(3) TMDL Effective Date: October 22, 2008

(4) Watershed Management Area: San Diego Bay

(5) Water Body: Chollas Creek

(6) Responsible Copermittees: City of La Mesa, City of Lemon Grove, City of San Diego, County of San Diego, San Diego Unified Port District of San Diego

b. WATER QUALITY BASED EFFLUENT LIMITATIONS

The WQBELsfor Chollas Creek consist of the following:

(1) Receiving Water Limitations

Discharges from the MS4s must not cause or contribute to the violation of the following receiving water limitations by the end of the compliance schedule under Specific Provision 4.c.(1):

Table 4.1
Receiving Water Limitations as Concentrations in Chollas Creek

Constituent	Exposure Duration	Effluent Limitation (µg/L)	Averaging Period
Dissolved Copper	Acute	$(0.96) \times e^{[0.9422 \times \ln(\text{hardness}) - 1.700]} \times \text{WER}^*$	1 hour
	Chronic	$(0.96) \times e^{[0.8545 \times \ln(\text{hardness}) - 1.702]} \times \text{WER}^*$	4 days
Dissolved Lead	Acute	$[1.46203 - 0.145712 \times \ln(\text{hardness})] \times e^{[1.273 \times \ln(\text{hardness}) - 1.460]} \times \text{WER}^*$	1 hour
	Chronic	$[1.46203 - 0.145712 \times \ln(\text{hardness})] \times e^{[1.273 \times \ln(\text{hardness}) - 4.705]} \times \text{WER}^*$	4 days
Dissolved Zinc	Acute	$(0.978) \times e^{[0.8473 \times \ln(\text{hardness}) + 0.884]} \times \text{WER}^*$	1 hour
	Chronic	$(0.986) \times e^{[0.8473 \times \ln(\text{hardness}) + 0.884]} \times \text{WER}^*$	4 days

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ADMINISTRATIVE DRAFT

Notes:

* The Water Effect Ratio (WER) is assumed to be 1.0 unless there is a site-specific and chemical-specific WER.

(2) Effluent Limitations

Discharges from the MS4s must not contain pollutant loads that exceed the following effluent limitations by the end of the compliance schedule under Specific Provision 4.c.(1):

Table 4.2*Effluent Limitations as Concentrations in MS4 Discharges to Chollas Creek*

Constituent	Exposure Duration	Effluent Limitation (µg/L)	Averaging Period
Dissolved Copper	Acute	$90\% \times (0.96) \times e^{[0.9422 \times \ln(\text{hardness}) - 1.700]} \times \text{WER}^*$	1 hour
	Chronic	$90\% \times (0.96) \times e^{[0.8545 \times \ln(\text{hardness}) - 1.702]} \times \text{WER}^*$	4 days
Dissolved Lead	Acute	$90\% \times [1.46203 - 0.145712 \times \ln(\text{hardness})] \times e^{[1.273 \times \ln(\text{hardness}) - 1.460]} \times \text{WER}^*$	1 hour
	Chronic	$90\% \times [1.46203 - 0.145712 \times \ln(\text{hardness})] \times e^{[1.273 \times \ln(\text{hardness}) - 4.705]} \times \text{WER}^*$	4 days
Dissolved Zinc	Acute	$90\% \times (0.978) \times e^{[0.8473 \times \ln(\text{hardness}) + 0.884]} \times \text{WER}^*$	1 hour
	Chronic	$90\% \times (0.986) \times e^{[0.8473 \times \ln(\text{hardness}) + 0.884]} \times \text{WER}^*$	4 days

Notes:

* The Water Effect Ratio (WER) is assumed to be 1.0 unless there is a site-specific and chemical-specific WER.

(3) Best Management Practices

- (a) The Responsible Copermittees ~~may~~**must** implement BMPs **to support the achievement of capable of achieving the** WQBELs under Specific Provision 4.b for Chollas Creek.
- (b) The Responsible Copermittees should coordinate the BMPs to address this TMDL with Caltrans and the U.S. Navy ~~wherever and whenever~~**as possible.**

c. COMPLIANCE SCHEDULE**(1) WLA Compliance Date**

The Responsible Copermittee is required to achieve the WLA, thus must be in compliance with the WQBELs under Specific Provision 4.b, by October 22, 2028.

ADMINISTRATIVE DRAFT**(2) Interim Compliance Requirements**

The Responsible Copermitee must comply with the following interim QWBELs by the interim compliance date:

Table 4.3

Interim Effluent Limitations as Concentrations in MS4 Discharges to Chollas Creek

Interim Compliance Date	Constituent	Exposure Duration	Effluent Limitation (µg/L)	Averaging Period
October 22, 2018	Dissolved Copper	Acute	$1.2 \times 90\% \times (0.96) \times e^{[0.9422 \times \ln(\text{hardness}) - 1.700]} \times \text{WER}^*$	1 hour
		Chronic	$1.2 \times 90\% \times (0.96) \times e^{[0.8545 \times \ln(\text{hardness}) - 1.702]} \times \text{WER}^*$	4 days
	Dissolved Lead	Acute	$1.2 \times 90\% \times [1.46203 - 0.145712 \times \ln(\text{hardness})] \times e^{[1.273 \times \ln(\text{hardness}) - 1.460]} \times \text{WER}^*$	1 hour
		Chronic	$1.2 \times 90\% \times [1.46203 - 0.145712 \times \ln(\text{hardness})] \times e^{[1.273 \times \ln(\text{hardness}) - 4.705]} \times \text{WER}^*$	4 days
	Dissolved Zinc	Acute	$1.2 \times 90\% \times (0.978) \times e^{[0.8473 \times \ln(\text{hardness}) + 0.884]} \times \text{WER}^*$	1 hour
		Chronic	$1.2 \times 90\% \times (0.986) \times e^{[0.8473 \times \ln(\text{hardness}) + 0.884]} \times \text{WER}^*$	4 days

Notes:

* The Water Effect Ratio (WER) is assumed to be 1.0 unless there is a site-specific and chemical-specific WER.

d. COMPLIANCE DETERMINATION

Compliance with QWBELs or WLAs may be demonstrated via any one of the following methods:

- (1) There is no discharge from the MS4, or
- (2) Applicable effluent limitations are met, or
- (3) Receiving waters meet the applicable receiving water limitations or water quality objective, or
- (4) Loading from the MS4 is such that it does not cause water quality objective exceedances, or
- (5) Implementation of a Water Quality Improvement Plan determined by the Regional Board Executive Officer to comply with Provision II.A as described in Provision II.A.4.

d.e. _____ SPECIFIC MONITORING AND ASSESSMENT REQUIREMENTS

- (a) The Responsible Copermitees must implement the monitoring and assessment requirements issued under Investigation Order No. R9-2004-0277, *California Department of Transportation and San Diego Municipal Separate Storm Sewer System Copermitees Responsible for the Discharge of Diazinon into the Chollas Creek Watershed*, when it is amended to include monitoring requirements for the Total Maximum Daily Loads for Dissolved Copper, Lead, and Zinc in Chollas Creek. The monitoring reports required

ATTACHMENT E: SPECIFIC PROVISIONS FOR TOTAL MAXIMUM DAILY LOADS
4. Total Maximum Daily Loads for Dissolved Copper, Lead, and Zinc in Chollas Creek

ADMINISTRATIVE DRAFT

under Investigation Order No. R9-2004-0277 must be submitted as part of the Annual Reports required under Provision [F.3.b](#) of this Order.

- (b) The Responsible Copermittees must ~~monitor the effluent of the MS4 outfalls discharging to Chollas Creek for dissolved copper, lead, and zinc, and calculate or estimate the monthly and annual dissolved copper, lead, and zinc loads, in accordance with the requirements of Provisions D.1, D.4.a.(1)(b), and D.4.a.(3)(b) of this Order~~ implement the monitoring and assessment requirements issued under Order No. R9-2007-0043, as consistent with this Order. The monitoring and assessment results must be submitted as part of the Annual Reports required under Provision [F.3.b](#) of this Order.

ADMINISTRATIVE DRAFT**5.4. Total Maximum Daily Loads for Indicator Bacteria, Baby Beach in Dana Point Harbor and Shelter Island Shoreline Park in San Diego Bay****a. APPLICABILITY**

- (1) TMDL Basin Plan Amendment: Resolution No. R9-2008-0027
- (2) TMDL Adoption and Approval Dates:
- | | |
|---------------------------------------------|--------------------|
| San Diego Water Board Adoption Date: | June 11, 2008 |
| State Water Board Approval Date: | June 16, 2009 |
| Office of Administrative Law Approval Date: | September 15, 2009 |
| US EPA Approval Date: | October 26, 2009 |
- (3) TMDL Effective Date: September 15, 2009
- (4) Watershed Management Areas: See [Table 5.0](#)
- (5) Water Bodies: See [Table 5.0](#)
- (6) Responsible Copermittees: See [Table 5.0](#)

Table 5.0

*Applicability of Total Maximum Daily Loads for Indicator Bacteria
Baby Beach in Dana Point Harbor and Shelter Island Shoreline Park in San Diego Bay*

Watershed Management Area	Water Body	Segment or Area	Responsible Copermittees
South Orange County	Dana Point Harbor	Baby Beach	-City of Dana Point -County of Orange
San Diego Bay	San Diego Bay	Shelter Island Shoreline Park	-Unified Port of San Diego

ADMINISTRATIVE DRAFT

b. WATER QUALITY BASED EFFLUENT LIMITATIONS

The WQBELs for segments or areas of the water bodies listed in [Table 5.0](#) consist of the following:

(1) Receiving Water Limitations

- (a) Discharges from the MS4s must not cause or contribute to the violation of the following receiving water limitations by the end of the compliance schedules under Specific Provisions [5.c.\(1\)\(a\)](#) and [5.c.\(2\)](#):

Table 5.1
Receiving Water Limitations as Bacteria Densities in the Water Body

Receiving Water Limitations		
Constituent	Single Sample Maximum ^{1,2}	30-Day Geometric Mean ²
Total Coliform	10,000 MPN/100mL	1,000 MPN/100mL
Fecal Coliform	400 MPN/100mL	200 MPN/100mL
<i>Enterococcus</i>	104 MPN/100mL	35 MPN/100mL

- Notes:
- 1. During wet weather days, only the single sample maximum receiving water limitations are required to be achieved.
 - 2. During dry weather days, the single sample maximum and 30-day geometric mean receiving water limitations are required to be achieved.

- (b) If the above receiving water limitations are not met in the receiving water, the Responsible Copermitees must demonstrate that the discharges from the MS4s are not causing or contributing to the violation of receiving water limitations. ~~The Copermitee must provide data that demonstrate the discharges from the MS4s are meeting the effluent limitations under Specific Provision 5.b.(2).~~

For both (a) and (b) above, if the REC-1 water quality objectives cannot be met in the receiving waters, and if the natural and background sources appear to be the sole source of the continued impairment, the natural sources exclusion approach (NSEA) may be applied. The Municipal Dischargers are responsible for collection of the data to support the application of the NSEA to recalculate the TMDL.

(2) Effluent Limitations

~~Discharges from the MS4s must not contain densities that exceed the following effluent limitations by the end of the compliance schedules under Specific Provisions 5.c.(1)(a) and 5.c.(2) to demonstrate the discharge is not causing or contributing to a violation of receiving water quality standards:~~

Table 5.2
Effluent Limitations as Bacteria Densities in MS4 Discharges to the Water Body

Effluent Limitations		
Constituent	Single Sample Maximum ^{1,2}	30-Day Geometric Mean ²
Total Coliform	10,000 MPN/100mL	1,000 MPN/100mL
Fecal Coliform	400 MPN/100mL	200 MPN/100mL
<i>Enterococcus</i>	104 MPN/100mL	35 MPN/100mL

ATTACHMENT E: SPECIFIC PROVISIONS FOR TOTAL MAXIMUM DAILY LOADS

- 5. Total Maximum Daily Loads for Indicator Bacteria, Baby Beach in Dana Point Harbor and Shelter Island Shoreline Park in San Diego Bay

ADMINISTRATIVE DRAFT

Notes:

- 1. ~~During wet weather days, only the single sample maximum effluent limitations are required to be achieved.~~
- 2. ~~During dry weather days, the single sample maximum and 30-day geometric mean effluent limitations are required to be achieved.~~

~~Interim effluent limitations expressed as pollutant loads are given in the compliance schedule under Specific Provision 5.c.~~

~~(3)~~(2) Best Management Practices

- (a) The Water Quality Improvement Plans for the applicable Watershed Management Areas in [Table 5.0](#) fulfill the Bacteria Load Reduction Plan (BLRP) requirements in Resolution No. R9-2008-0027.
- (b) The Responsible Copermitee must implement BMPs capable of achieving the WQBELs under Specific Provision [5.0](#) for the segments or areas of the water bodies listed in [Table 5.0](#)

c. COMPLIANCE SCHEDULE

(1) Baby Beach in Dana Point Harbor

- (a) ~~WLA-Waste Load Reduction~~ Compliance Dates

ADMINISTRATIVE DRAFT

The Responsible Copermittees for MS4 discharges to Baby Beach shall implement BMPs capable of achieving the following Waste Load Reduction Milestones, are required to achieve the WLA, thus must be in compliance with the WQBELs under Specific Provision 5.0, according to the following compliance schedule:

Table 5.3
TMDL Waste Load Reduction Milestones

Action	Dry Weather	Wet Weather
Meet 50% wasteload reductions	December 2012*	December, 2016*
Meet 100% wasteload reductions	December, 2014*	December, 2019*

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Compliance Schedule Dates to Achieve Baby Beach WLAs

Constituent	Dry-Weather WLA Compliance-Date	Wet-Weather WLA Compliance-Date
Total Coliform		September 15, 2009
Fecal Coliform	September 15, 2014	September 15, 2009
Enterococcus		September 15, 2019

(b) Interim Compliance Requirements

The Responsible Copermittees for MS4 discharges to Baby Beach must comply with the following interim WQBELs by the interim compliance date:

Table 5.4
Interim Effluent Limitations as Loads in MS4 Discharges to Baby Beach

Constituent	Interim Compliance-Date	Dry-Weather Interim Effluent Limitation	Wet-Weather Interim Effluent Limitation
Total Coliform	September 15, 2012	5.32×10^3 MPN/day	NA*
Fecal Coliform	September 15, 2012	0.59×10^3 MPN/day	NA*
Enterococcus	September 15, 2012	0.42×10^3 MPN/day	NA**
	September 15, 2016	NA*	207×10^3 MPN/30days

Notes:
* The WQBELs under Specific Provision 5.b must already be achieved by the given interim compliance date.
** There is no corresponding interim WQBEL for the given interim compliance date.

(2) Shelter Island Shoreline Park in San Diego Bay

The Responsible Copermittee for MS4 discharges to Shelter Island Shoreline Park is required to achieve the WLA, thus must be in compliance with the WQBELs under Specific Provision 5.0, by December 31, 2012.

d. COMPLIANCE DETERMINATION

Compliance with WQBELs or WLAs may be demonstrated via any one of the following methods:

- (1) There is no discharge from the MS4, or
- (2) Applicable effluent limitations are met, or
- (3) Receiving waters meet the applicable receiving water limitations or water quality objective, or
- (4) Loading from the MS4 is such that it does not cause water quality objective

ADMINISTRATIVE DRAFT

- ~~exceedances, or~~
- ~~(5) Demonstration of elimination of controllable sources of indicator bacteria loading and application of Natural Source Exclusion Approach (NSEA), if applicable, or~~
- ~~(6) Implementation of a Water Quality Improvement Plan determined by the Regional Board Executive Officer to comply with Provision II.A as described in Provision II.A.4.~~

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d.e. SPECIFIC MONITORING AND ASSESSMENT REQUIREMENTS

(1) Monitoring Stations and Procedures

~~(a) The Responsible Copermitees must implement the monitoring requirements issued under Order No. R9-2008-0027. designate the MS4 outfalls within their jurisdiction discharging to the segments or areas of the water bodies listed in Table 5.0 as high-priority non-storm water MS4 monitoring stations, in accordance with the requirements of Provision D.1.~~

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~~(b) The Responsible Copermitees must establish at least one monitoring station within the receiving water body.~~

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(2) Monitoring Procedures

~~(a) The Responsible Copermitees must monitor the effluent of the designated MS4 outfalls within their jurisdiction discharging during dry weather conditions to the segments or areas of the water bodies listed in Table 5.0 in accordance with the dry-weather jurisdictional monitoring requirements of Provision D.1.a.(1)(b). Samples required to be submitted to a laboratory for analysis must include analysis for total coliform, fecal coliform, and *Enterococcus* indicator bacteria.~~

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~~(b) The Responsible Copermitees must monitor, within the first 24 hours of each storm event,²⁶ the effluent of the designated MS4 outfalls within their jurisdiction discharging to the segments or areas of the water bodies listed in Table 5.0 in accordance with the wet-weather jurisdictional monitoring requirements of Provision D.1.b.(1)(b) of this Order. Samples required to be submitted to a laboratory for analysis must include analysis for total coliform, fecal coliform, and *Enterococcus* indicator bacteria.~~

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~~(c) The Responsible Copermitees must collect samples from the monitoring stations within the receiving water body for each dry-weather and wet~~

²⁶ Wet weather days are defined by the TMDL as storm events of 0.2 inches or greater and the following 72 hours. The Responsible Copermitees may choose to limit their wet weather sampling requirements to storm events of 0.2 inches or greater, or also include storm events of 0.1 inches or greater as defined by the federal regulations [40CFR122.26(d)(2)(iii)(A)(2)].

ADMINISTRATIVE DRAFT

~~weather MS4 outfall monitoring event. Samples must be analyzed for total coliform, fecal coliform, and *Enterococcus* indicator bacteria.~~

~~(d)~~(a)

~~(3)~~(2) Assessment and Reporting Requirements

- (a) The Responsible Copermittees must analyze the dry weather and wet weather monitoring data to assess whether the interim and final WQBELs have been achieved.
- (b) The monitoring and assessment results must be submitted as part of the Annual Reports required under Provision [F.3.b](#) of this Order.

ADMINISTRATIVE DRAFT

6.5. Revised Total Maximum Daily Loads for Indicator Bacteria, Project I – Twenty Beaches and Creeks in the San Diego Region (Including Tecolote Creek)

a. APPLICABILITY

(1) TMDL Basin Plan Amendment: Resolution No. R9-2010-0001

(2) TMDL Adoption and Approval Dates:

San Diego Water Board Adoption Date:	February 10, 2010
State Water Board Approval Date:	December 14, 2010
Office of Administrative Law Approval Date:	April 4, 2011
US EPA Approval Date:	June 22, 2011

(3) TMDL Effective Date: April 4, 2011

(4) Watershed Management Areas: See [Table 6.0](#)

(5) Water Bodies: See [Table 6.0](#)

Subsequent to TMDL adoption, the Regional Board determined that the following water bodies are not subject to further action under Resolution No. R9-2010-001, and therefore are not subject to Bacteria TMDL requirements described herein and are not included in Table 6.0:

<u>Watershed Management Area</u>	<u>Water Body</u>	<u>Segment or Area</u>
<u>Carlsbad</u>	<u>Pacific Ocean Shoreline</u>	<u>at Moonlight State Beach</u>
<u>San Dieguito River</u>	<u>Pacific Ocean Shoreline</u>	<u>at San Dieguito Lagoon mouth</u>
<u>Penasquitos</u>	<u>Pacific Ocean Shoreline</u>	<u>Torrey Pines State Beach at Del Mar (Anderson Canyon)</u>

ADMINISTRATIVE DRAFT(5)(6) Responsible Copermittees: See [Table 6.0](#)**Table 6.0***Applicability of Total Maximum Daily Loads for Indicator Bacteria**Project 1 - Twenty Beaches and Creeks in the San Diego Region (including Tecolote Creek)*

Watershed Management Area	Water Body	Segment or Area	Responsible Copermittees
South Orange County	Pacific Ocean Shoreline	Cameo Cove at Irvine Cove Drive – Riviera Way	-City of Laguna Beach -County of Orange -Orange County Flood Control District
		at Heisler Park - North	
	Pacific Ocean Shoreline	at Main Laguna Beach	-City of Aliso Viejo -City of Laguna Beach -City of Laguna Woods -County of Orange -Orange County Flood Control District
		Laguna Beach at Ocean Avenue	
		Laguna Beach at Cleo Street	
		Arch Cove at Bluebird Canyon Road	
	Pacific Ocean Shoreline	Laguna Beach at Dumond Drive	-City of Aliso Viejo -City of Laguna Beach -City of Laguna Hills -City of Laguna Niguel -City of Laguna Woods -City of Lake Forest -City of Mission Viejo -County of Orange -Orange County Flood Control District
Laguna Beach at Lagunita Place / Blue Lagoon Place at Aliso Beach			
Aliso Creek	Entire reach (7.2 miles) and associated tributaries: - Aliso Hills Channel - English Canyon Creek - Dairy Fork Creek - Sulfur Creek - Wood Canyon Creek		
Aliso Creek Mouth	at mouth		

ADMINISTRATIVE DRAFT**Table 6.0 (Cont'd)**

Applicability of Total Maximum Daily Loads for Indicator Bacteria

Project I - Twenty Beaches and Creeks in the San Diego Region (including Tecolote Creek)

Watershed Management Area	Water Body	Segment or Area	Responsible Copermittees
South Orange County (cont'd)	Pacific Ocean Shoreline	Aliso Beach at West Street	-City of Dana Point -City of Laguna Beach -City of Laguna Niguel -County of Orange -Orange County Flood Control District
		Aliso Beach at Table Rock Drive	
		100 Steps Beach at Pacific Coast Hwy at hospital (9 th Avenue)	
		at Salt Creek (large outlet)	
		Salt Creek Beach at Salt Creek service road	
		Salt Creek Beach at Strand Road	
	Pacific Ocean Shoreline	at San Juan Creek	-City of Dana Point -City of Laguna Hills -City of Laguna Niguel -City of Mission Viejo -City of Rancho Santa Margarita -City of San Juan Capistrano -County of Orange -Orange County Flood Control District
	San Juan Creek	lower 1 mile	-City of San Juan Capistrano -County of Orange -Orange County Flood Control District
	San Juan Creek Mouth	at mouth	-City of San Juan Capistrano -County of Orange -Orange County Flood Control District
	Pacific Ocean Shoreline	at Poche Beach	- City of Dana Point -City of San Clemente -County of Orange -Orange County Flood Control District
		Ole Hanson Beach Club Beach at Pico Drain	
		San Clemente City Beach at El Portal Street Stairs	
		San Clemente City Beach at Mariposa Street	
		San Clemente City Beach at Linda Lane	
San Clemente City Beach at South Linda Lane			
San Clemente City Beach at Lifeguard Headquarters under San Clemente Municipal Pier			
San Clemente City Beach at Trafalgar Canyon (Trafalgar Lane)			
San Clemente State Beach at Riviera Beach			
San Clemente State Beach at Cypress Shores			
San Luis Rey River	Pacific Ocean Shoreline	at San Luis Rey River mouth	-City of Oceanside -City of Vista -County of San Diego

ATTACHMENT E: SPECIFIC PROVISIONS FOR TOTAL MAXIMUM DAILY LOADS

6. Revised Total Maximum Daily Loads for Indicator Bacteria, Project I – Twenty Beaches and Creeks in the San Diego Region (Including Tecolote Creek)

ADMINISTRATIVE DRAFT

Table 6.0 (Cont'd)

Applicability of Total Maximum Daily Loads for Indicator Bacteria

Project I - Twenty Beaches and Creeks in the San Diego Region (including Tecolote Creek)

Watershed Management Area	Water Body	Segment or Area	Responsible Copermittees
Carlsbad	Pacific Ocean Shoreline	at Moonlight State Beach	-City of Carlsbad -City of Encinitas -City of Escondido -City of Oceanside -City of San Marcos -City of Solana Beach -City of Vista -County of San Diego
San Dieguito River	Pacific Ocean Shoreline	at San Dieguito Lagoon mouth	-City of Del Mar -City of Escondido -City of Poway -City of San Diego -City of Solana Beach -County of San Diego
Penasquitos	Pacific Ocean Shoreline	Torrey Pines State Beach at Del Mar (Anderson Canyon)	-City of Del Mar -City of Poway -City of San Diego -County of San Diego
<u>Mission</u>	Pacific Ocean Shoreline	La Jolla Shores Beach at El Paseo Grande	-City of San Diego
		La Jolla Shores Beach at Caminito del Oro	
		La Jolla Shores Beach at Vallecitos	
		La Jolla Shores Beach at Avenida de la Playa	
		at Casa Beach, Children's Pool	
		South Casa Beach at Coast Boulevard	
		Whispering Sands Beach at Ravina Street	
		Windansea Beach at Vista de la Playa	
		Windansea Beach at Bonair Street	
		Windansea Beach at Playa del Norte	
		Windansea Beach at Palomar Avenue	
		at Tourmaline Surf Park	
		Pacific Beach at Grand Avenue	
	Tecolote Creek	Entire reach and tributaries	-City of San Diego

ADMINISTRATIVE DRAFT

Table 6.0 (Cont'd)

*Applicability of Total Maximum Daily Loads for Indicator Bacteria
Project I- Twenty Beaches and Creeks in the San Diego Region (including Tecolote Creek)*

Watershed Management Area	Water Body	Segment or Area	Responsible Copermittees
San Diego River	Forrester Creek	lower 1 mile	-City of El Cajon -City of La Mesa -City of Santee -County of San Diego
	San Diego River	lower 6 miles	-City of El Cajon -City of La Mesa -City of San Diego -City of Santee -County of San Diego
	Pacific Ocean Shoreline	at San Diego River mouth at Dog Beach	
San Diego Bay	Chollas Creek	lower 1.2 miles	-City of La Mesa -City of Lemon Grove -City of San Diego -County of San Diego - San Diego Unified Port District

The TMDLs that have been developed for the Pacific Ocean shorelines are applicable to all the beaches located on the shorelines of the hydrologic subareas (HSAs), hydrologic areas (HAs), and hydrologic units (HUs) listed above. Beginning with the 2008 303(d) List, specific beach segments of the Pacific Ocean shoreline are listed individually. Specific beach segments from some of the Pacific Ocean shorelines listed in the above table have been delisted from the 2008 303(d) list that was approved by the San Diego Board on December 16, 2009, and therefore are not subject to any further action as long as monitoring data continues to support compliance with water quality standards.

b. WATER QUALITY BASED EFFLUENT LIMITATIONS

The WQBELs for segments or areas of the water bodies listed in [Table 6.0](#) consist of the following:

(1) Receiving Water Limitations

- (a) Discharges from the MS4s must not cause or contribute to the violation of the following receiving water limitations by the end of the compliance schedules under Specific Provision [6.c.\(1\)](#):

Table 6.1

Receiving Water Limitations for Beaches as Bacteria Densities and Allowable Exceedance Frequencies in the Water Body

ADMINISTRATIVE DRAFT

Indicator Bacteria	Wet Weather Days ^a		Dry Weather Days ^b	
	Wet Weather Numeric Objective ^c (MPN/100mL)	Wet Weather Allowable Exceedance ^d Frequency	Dry Weather Numeric Objective ^e (MPN/100mL)	Dry Weather Allowable Exceedance Frequency
Fecal Coliform	400	22%	200	0%
Total Coliform	10,000	22%	1,000	0%
Enterococcus	104	22%	35	0%

- a. Wet weather days defined as days with rainfall events of 0.2 inches or greater and the following 72 hours.
- b. Dry weather days defined as days with less than 0.2 inch of rainfall observed on each of the previous 3 days.
- c. Wet weather numeric objectives based on the single sample maximum water quality objectives in the California Ocean Plan (2005). Compliance with the wet weather TMDLs in the receiving water is based on the frequency that the wet weather days in any given year exceed the wet weather numeric objective, but 30-day geometric mean must also be met.
- d. The wet weather allowable exceedance frequency is set at 22%. In the calculation of the wet weather TMDLs, the San Diego Regional Board chose to apply the 22 percent allowable exceedance frequency as determined for Leo Carillo Beach in Los Angeles County. At the time the wet weather watershed model was developed, the 22 percent exceedance frequency from Los Angeles County was the only reference beach exceedance frequency available. The 22 percent allowable exceedance frequency used to calculate the wet weather TMDLs is justified because the San Diego Region watersheds' exceedance frequencies will likely be close to the value calculated for Leo Carillo Beach, and is consistent with the exceedance frequency that was applied by the Los Angeles Regional Board.
- e. Dry weather numeric objectives based on the 30-day geometric mean water quality objectives in the California Ocean Plan (2005). Compliance with the dry weather TMDLs in the receiving water is based on the frequency that the dry weather days in any given year exceed the dry weather numeric objective.

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Table 6.2 Receiving Water Limitations for Creeks as Bacteria Densities and Allowable Exceedance Frequencies in the Water Body

Indicator Bacteria	Wet Weather Days ^a		Dry Weather Days ^b	
	Wet Weather Numeric Objective ^c (MPN/100mL)	Wet Weather Allowable Exceedance ^d Frequency	Dry Weather Numeric Objective ^e (MPN/100mL)	Dry Weather Allowable Exceedance Frequency
Fecal Coliform	400	22%	200	0%
Enterococcus	61 (104) ^f	22%	31	0%

- a. Wet weather days defined as days with rainfall events of 0.2 inches or greater and the following 72 hours.
- b. Dry weather days defined as days with less than 0.2 inch of rainfall observed on each of the previous 3 days.
- c. Wet weather numeric objectives based on the single sample maximum (or equivalent) water quality objectives in the Water Quality Control Plan for the San Diego Basin (1994). Compliance with the wet weather TMDLs in the receiving water is based on the frequency that the wet weather days in any given year exceed the wet weather numeric objective, but 30-day geometric mean must also be met.
- d. The wet weather allowable exceedance frequency is set at 22%. In the calculation of the wet weather TMDLs, the San Diego Regional Board chose to apply the 22 percent allowable exceedance frequency as determined for Leo Carillo Beach in Los Angeles County. At the time the wet weather watershed model was developed, the 22 percent exceedance frequency from Los Angeles County was the only reference beach exceedance frequency available. The 22 percent allowable exceedance frequency used to calculate the wet weather TMDLs is justified because the San Diego Region watersheds' exceedance frequencies will likely be close to the value calculated for Leo Carillo Beach, and is consistent with the exceedance frequency that was applied by the Los Angeles Regional Board.
- e. Dry weather numeric objectives based on the 30-day geometric mean (or equivalent) water quality objectives in Water Quality Control Plan for the San Diego Basin (1994). Compliance with the dry weather TMDLs in the receiving water is based on the frequency that the dry weather days in any given year exceed the dry weather numeric objective.
- f. A wet weather numeric objective for *Enterococcus* of 104 MPN/100mL may be applied as a receiving water limitation for creeks, instead of 61 MPN/100mL, if one or more of the creeks addressed by these TMDLs (San Juan Creek, Aliso Creek, Tecolote Creek, Forrester Creek, San Diego River, and/or Chollas Creek) is designated with a "moderately to lightly used area" or less frequent usage frequency in the Basin Plan. Otherwise, the wet weather numeric objective of 61 MPN/100mL for *Enterococcus* will be used to assess compliance with the wet weather allowable exceedance frequency.

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Receiving Water Limitations				
Constituent	Single Sample Maximum ^{1,2} (MPN/100mL)	Single Sample Maximum Allowable Exceedance Frequency ³	30-Day Geometric Mean ² (MPN/100mL)	30-Day Geometric Mean Allowable Exceedance Frequency
Total Coliform	10,000	22% / 0%	1,000	0%

ATTACHMENT E: SPECIFIC PROVISIONS FOR TOTAL MAXIMUM DAILY LOADS
 6. Revised Total Maximum Daily Loads for Indicator Bacteria, Project I – Twenty Beaches and Creeks in the San Diego Region (Including Tecolote Creek)

ADMINISTRATIVE DRAFT

Fecal Coliform	400	22% / 0%	200	0%
Enterococcus	104^a / 61^b	22% / 0%	35^a / 33^b	0%

Notes:

- 1- During wet weather days, only the single sample maximum receiving water limitations are required to be achieved.
- 2- During dry weather days, the single sample maximum and 30-day geometric mean receiving water limitations are required to be achieved.
- 3- The 22% single sample maximum allowable exceedance frequency only applies to wet weather days. The 0% single sample maximum allowable exceedance frequency applies to dry weather days.
- 4- This *Enterococcus* receiving water limitation applies to segments of areas of Pacific Ocean Shoreline listed in Table 6.0.
- 5- This *Enterococcus* receiving water limitations applies to segments or areas of creeks or creek mouths listed in Table 6.0.

Interim receiving water limitations expressed as allowable receiving water exceedance frequencies are given presented in the compliance schedule under Specific Provision 6.c (2).

The allowable exceedance frequencies in Table 6.1 and Table 6.2 can be updated by the Regional Board Executive Officer if sufficient data is provided regarding reference systems in the San Diego Region.

- (b) If the above receiving water limitations are not met in the receiving water, the Responsible Copermittees must demonstrate that the discharges from the MS4s are not causing or contributing to the violation of receiving water limitations. ~~The Copermittee may incorporate follow up investigations and monitoring into the WQIP, as consistent with Provisions D and E.2 of this Order. must provide data that demonstrate the discharges from the MS4s are meeting the effluent limitations under Specific Provision 6.b.(2).~~

(2) Effluent Limitations

Discharges from the MS4s must not ~~cause or contribute contain densities that exceed the following effluent limitations by the end of the compliance schedules under Specific Provision 6.c.(1) to demonstrate the discharge is not causing or contributing to a violation of receiving water quality standards/limitations. The mass-based waste load allocations presented in Resolution No. R9-2010-0001 can be used to demonstrate that loading from the MS4 is such that it does not cause water quality objective exceedances, as described in bullet (4) under Specific Provision 6.d.~~

Table 6.2

Effluent Limitations as Bacteria Densities and Allowable Exceedance Frequencies in MS4 Discharges to the Water Body

Constituent	Effluent Limitations			
	Single Sample Maximum ^{1,2} (MPN/100mL)	Single Sample Maximum Allowable Exceedance Frequency ³	30-Day Geometric Mean ² (MPN/100mL)	30-Day Geometric Mean Allowable Exceedance Frequency
Total Coliform	10,000	22% / 0%	1,000	0%
Fecal Coliform	400	22% / 0%	200	0%
Enterococcus	104 ^a / 61 ^b	22% / 0%	35 ^a / 33 ^b	0%

Notes:

ATTACHMENT E: SPECIFIC PROVISIONS FOR TOTAL MAXIMUM DAILY LOADS
 6. Revised Total Maximum Daily Loads for Indicator Bacteria, Project I –
 Twenty Beaches and Creeks in the San Diego Region (Including Tecolote Creek)

ADMINISTRATIVE DRAFT

- 1. ~~During wet weather days, only the single sample maximum effluent limitations are required to be achieved.~~
- 2. ~~During dry weather days, the single sample maximum and 30-day geometric mean effluent limitations are required to be achieved.~~
- 3. ~~The 22% single sample maximum allowable exceedance frequency only applies to wet weather days. The 0% single sample maximum allowable exceedance frequency applies to dry weather days.~~
- 4. ~~This *Enterococcus* effluent limitation applies to MS4 discharges to segments of areas of Pacific Ocean Shoreline listed in Table 6.0.~~
- 5. ~~This *Enterococcus* effluent limitation applies to MS4 discharges to segments or areas of creeks or creek mouths listed in Table 6.0.~~

~~Interim effluent limitations expressed as allowable exceedance frequencies are given in the compliance schedule under Specific Provision 6.c.~~

(3) Best Management Practices

- (a) The Water Quality Improvement Plans for the applicable Watershed Management Areas in [Table 6.0](#) ~~that continue to have 303(d) listings for RED-1 indicator bacteria will incorporate fulfill the Comprehensive Load Reduction Plans (CLRPs) drafted pursuant to requirements in~~ Resolution No. R9-2010-0001.
- (b) The Responsible Copermittee ~~must may~~ implement BMPs ~~to support the achievement of capable of achieving the~~ WQBELs under Specific Provision [6.b](#) for the segments or areas of the water bodies listed in [Table 6.0](#).
- (c) The Responsible Copermittees ~~may implement should coordinate the~~ BMPs to ~~support the achievement of address~~ this TMDL with Caltrans and owners/operators of small MS4s ~~wherever and whenever as~~ possible.

c. COMPLIANCE SCHEDULE

(1) ~~WLA Waste Load Reduction~~ Compliance Dates

The Responsible Copermittees for MS4 discharges to a segment or area of the water bodies listed in [Table 6.0](#) are required to achieve the ~~WLA Waste Load Reductions~~, thus must be in compliance with the WQBELs under Specific Provision [6.b](#), according to the following compliance schedule:

Table 6.3

Compliance Schedule Dates to Achieve Indicator Bacteria ~~WLA Waste Load Reductions~~

Constituent	Dry Weather WLA Compliance Date	Wet Weather WLA Compliance Date
Total Coliform	April 4, 2021	April 4, 2031
Fecal Coliform		
<i>Enterococcus</i>		

1 - Total coliform receiving water limitations apply only to segments of areas of Pacific Ocean Shoreline listed in [Table 6.0](#).

(2) Interim Compliance Requirements

The Responsible Copermittees must comply with the following interim WQBELs by the interim compliance dates supported by Order No. R9-2010-0001.

ADMINISTRATIVE DRAFT

(a) Interim Dry Weather WQBELs

~~The Responsible Copermittees must comply with dry weather interim WQBELs demonstrating 50% exceedance frequency reductions by the interim compliance dates presented in Table 6.5. Data from year(s) between 1996-2002 (as available) may be used to characterize the “existing” dry weather exceedances frequency as the baseline from which interim reductions in exceedances frequency must be measured.~~

~~Interim dry weather WQBELs are expressed as receiving water limitations. The Responsible Copermittee must calculate the “existing” exceedance frequencies of the 30-day geometric mean water quality objectives for each of the indicator bacteria by analyzing the monitoring data collected between January 1, 2002 and April 4, 2011. “Existing” exceedance frequencies may be calculated by segment or area of a water body, or by water body, and/or by Watershed Management Area listed in Table 6.0. Separate “existing” exceedance frequencies must be calculated for beaches and creeks/creek mouths, where applicable.~~

~~The Responsible Copermittees must achieve a 50 percent reduction in each the “existing” exceedance frequency, or otherwise demonstrate 50% reduction progress toward the final allowable exceedances frequency or compliance metric, by the interim compliance dates for dry weather given in Table 6.5. Metric(s) expressing the 50 percent reduction in of the 30-day geometric mean WQBELs for the segments or areas of the water bodies listed in Table 6.0 by the interim compliance dates for achieving the interim dry weather WQBELs given in Table 6.5. A 50 percent reduction in the “existing” exceedance frequency is equivalent to half of the “existing” exceedance frequency of the 30-day geometric mean WQBELs dry weather exceedances frequency (i.e. interim dry weather WQBELs, which may be expressed as receiving water limitations) calculated by the Responsible Copermittees must be included in the Water Quality Improvement Plans for the applicable Watershed Management Areas.~~

~~The “existing” exceedance frequencies and the interim dry weather allowable exceedance frequencies (i.e. interim dry weather WQBELs) calculated by the Responsible Copermittees must be included in the Water Quality Improvement Plans for the applicable Watershed Management Areas.~~

(b) Interim Wet Weather WQBELs

~~The Responsible Copermittees must achieve the interim allowable wet weather exceedances frequencies identified in WQBELs in Table 6.4, or otherwise demonstrate 50% progress towards the final wet weather compliance metric, expressed as interim allowable exceedance frequencies, by the interim compliance dates for achieving the interim wet weather WQBELs given in Table 6.5, unless an alternative interim~~

ADMINISTRATIVE DRAFT

compliance schedule is identified in the applicable LRP.

Table 6.4

*Interim Wet Weather WQBELs Expressed as
Interim Wet Weather Allowable Exceedance Frequencies*

Watershed Management Area	Water Body	Segment or Area	Interim Wet Weather Allowable Exceedance Frequencies					
			Total Coliform	Fecal Coliform	Enterococcus			
South Orange County	Pacific Ocean Shoreline	Cameo Cove at Irvine Cove Drive – Riviera Way	38%	37%	39%			
		at Heisler Park - North						
	Pacific Ocean Shoreline	at Main Laguna Beach						
		Laguna Beach at Ocean Avenue						
		Laguna Beach at Cleo Street						
		Arch Cove at Bluebird Canyon Road						
	Pacific Ocean Shoreline	Laguna Beach at Dumond Drive						
		Laguna Beach at Lagunita Place / Blue Lagoon Place at Aliso Beach				41%	41%	42%
	Aliso Creek	Entire reach (7.2 miles) and associated tributaries: - Aliso Hills Channel - English Canyon Creek - Dairy Fork Creek - Sulfur Creek - Wood Canyon Creek				41%	41%	42%
	Aliso Creek Mouth	at mouth				41%	41%	42%
	Pacific Ocean Shoreline	Aliso Beach at West Street				36%	36%	36%
		Aliso Beach at Table Rock Drive						
100 Steps Beach at Pacific Coast Hwy at hospital (9 th Avenue)								
at Salt Creek (large outlet)								
Salt Creek Beach at Salt Creek service road								
Salt Creek Beach at Strand Road								

ADMINISTRATIVE DRAFT**Table 6.4 (Cont'd)**

*Interim Wet Weather WQBELs Expressed as
Interim Wet Weather Allowable Exceedance Frequencies*

Watershed Management Area	Water Body	Segment or Area	Interim Wet Weather Allowable Exceedance Frequencies			
			Total Coliform	Fecal Coliform	<i>Entero- coccus</i>	
South Orange County (cont'd)	Pacific Ocean Shoreline	at San Juan Creek	44%	44%	48%	
	San Juan Creek	lower 1 mile	44%	44%	47%	
	San Juan Creek Mouth	at mouth	44%	44%	47%	
	Pacific Ocean Shoreline	at Poche Beach		35%	35%	36%
		Ole Hanson Beach Club Beach at Pico Drain				
		San Clemente City Beach at El Portal Street Stairs				
		San Clemente City Beach at Mariposa Street				
		San Clemente City Beach at Linda Lane				
		San Clemente City Beach at South Linda Lane				
		San Clemente City Beach at Lifeguard Headquarters				
		under San Clemente Municipal Pier				
		San Clemente City Beach at Trafalgar Canyon (Trafalgar Lane)				
		San Clemente State Beach at Riviera Beach				
	San Clemente State Beach at Cypress Shores					
San Luis Rey River	Pacific Ocean Shoreline	at San Luis Rey River mouth	45%	44%	47%	
Carlsbad	Pacific Ocean Shoreline	at Moonlight State Beach	40%	40%	41%	
San Dieguito River	Pacific Ocean Shoreline	at San Dieguito Lagoon mouth	33%	33%	36%	

ATTACHMENT E: SPECIFIC PROVISIONS FOR TOTAL MAXIMUM DAILY LOADS
6. Revised Total Maximum Daily Loads for Indicator Bacteria, Project I –
Twenty Beaches and Creeks in the San Diego Region (Including Tecolote Creek)

ADMINISTRATIVE DRAFT**Table 6.4 (Cont'd)**

*Interim Wet Weather WQBELs Expressed as
Interim Wet Weather Allowable Exceedance Frequencies*

Watershed Management Area	Water Body	Segment or Area	Interim Wet Weather Allowable Exceedance Frequencies		
			Total Coliform	Fecal Coliform	<i>Entero- coccus</i>
Penasquitos	Pacific Ocean Shoreline	Torrey Pines State Beach at Del Mar (Anderson Canyon)	26%	26%	26%
	Pacific Ocean Shoreline	La Jolla Shores Beach at El Paseo Grande	37%	37%	37%
		La Jolla Shores Beach at Caminito del Oro			
		La Jolla Shores Beach at Vallecitos			
		La Jolla Shores Beach at Avenida de la Playa			
		at Casa Beach, Children's Pool			
		South Casa Beach at Coast Boulevard			
		Whispering Sands Beach at Ravina Street			
		Windansea Beach at Vista de la Playa			
		Windansea Beach at Bonair Street			
		Windansea Beach at Playa del Norte			
		Windansea Beach at Palomar Avenue			
		at Tourmaline Surf Park			
		Pacific Beach at Grand Avenue			
Tecolote Creek	Entire reach and tributaries	49%	49%	51%	
San Diego River	Forrester Creek	lower 1 mile	46%	43%	49%
	San Diego River	lower 6 miles	46%	43%	49%
	Pacific Ocean Shoreline	at San Diego River mouth at Dog Beach	46%	43%	51%
San Diego Bay	Chollas Creek	lower 1.2 miles	41%	41%	43%

ATTACHMENT E: SPECIFIC PROVISIONS FOR TOTAL MAXIMUM DAILY LOADS
6. Revised Total Maximum Daily Loads for Indicator Bacteria, Project I –
Twenty Beaches and Creeks in the San Diego Region (Including Tecolote Creek)

ADMINISTRATIVE DRAFT

(c) Interim WQBEL Compliance Dates

The Responsible Copermitees must achieve the interim WQBELs under Specific Provisions 6.c.(2)(a) and 6.c.(2)(b) by the interim compliance dates given in [Table 6.5](#), unless an alternative interim compliance schedule is identified in the applicable LRP.

Table 6.5*Interim Compliance Dates to Achieve Interim WQBELs*

Watershed Management Area	Water Body	Segment or Area	Interim Compliance Dates	
			Interim Dry Weather WQBELs	Interim Wet Weather WQBELs
South Orange County	Pacific Ocean Shoreline	Cameo Cove at Irvine Cove Drive – Riviera Way	April 4, 2016	April 4, 2021
		at Heisler Park - North		
	Pacific Ocean Shoreline	at Main Laguna Beach	April 4, 2016	April 4, 2021
		Laguna Beach at Ocean Avenue		
		Laguna Beach at Cleo Street		
		Arch Cove at Bluebird Canyon Road		
	Pacific Ocean Shoreline	Laguna Beach at Dumond Drive	April 4, 2016	April 4, 2021
		Laguna Beach at Lagunita Place / Blue Lagoon Place at Aliso Beach		
	Aliso Creek	Entire reach (7.2 miles) and associated tributaries: - Aliso Hills Channel - English Canyon Creek - Dairy Fork Creek - Sulfur Creek - Wood Canyon Creek	April 4, 2018	April 4, 2021
		Aliso Creek Mouth		
	Pacific Ocean Shoreline	Aliso Beach at West Street	April 4, 2016	April 4, 2021
		Aliso Beach at Table Rock Drive		
100 Steps Beach at Pacific Coast Hwy at hospital (9 th Avenue)				
at Salt Creek (large outlet)				
Salt Creek Beach at Salt Creek service road		April 4, 2017		
	Salt Creek Beach at Strand Road	April 4, 2017	April 4, 2021	

ATTACHMENT E: SPECIFIC PROVISIONS FOR TOTAL MAXIMUM DAILY LOADS
6. Revised Total Maximum Daily Loads for Indicator Bacteria, Project I –
Twenty Beaches and Creeks in the San Diego Region (Including Tecolote Creek)

ADMINISTRATIVE DRAFT**Table 6.5 (Cont'd)***Interim Compliance Dates to Achieve Interim WQBELs*

Watershed Management Area	Water Body	Segment or Area	Interim Compliance Dates		
			Interim Dry Weather WQBELs	Interim Wet Weather WQBELs	
South Orange County (cont'd)	Pacific Ocean Shoreline	at San Juan Creek	April 4, 2016	April 4, 2021	
	San Juan Creek	lower 1 mile	April 4, 2018	April 4, 2021	
	San Juan Creek Mouth	at mouth	April 4, 2016	April 4, 2021	
	Pacific Ocean Shoreline	at Poche Beach		April 4, 2016	April 4, 2021
		Ole Hanson Beach Club Beach at Pico Drain		April 4, 2016	April 4, 2021
		San Clemente City Beach at El Portal Street Stairs		April 4, 2017	April 4, 2021
		San Clemente City Beach at Mariposa Street			
		San Clemente City Beach at Linda Lane		April 4, 2016	April 4, 2021
		San Clemente City Beach at South Linda Lane		April 4, 2018	April 4, 2021
		San Clemente City Beach at Lifeguard Headquarters		April 4, 2017	April 4, 2021
		under San Clemente Municipal Pier			
		San Clemente City Beach at Trafalgar Canyon (Trafalgar Lane)		April 4, 2018	April 4, 2021
		San Clemente State Beach at Riviera Beach		April 4, 2016	April 4, 2021
	San Clemente State Beach at Cypress Shores		April 4, 2017	April 4, 2021	
San Luis Rey River	Pacific Ocean Shoreline	at San Luis Rey River mouth	April 4, 2017	April 4, 2021	
Carlsbad	Pacific Ocean Shoreline	at Moonlight State Beach	April 4, 2016	April 4, 2021	
San Dieguito River	Pacific Ocean Shoreline	at San Dieguito Lagoon mouth	April 4, 2016	April 4, 2021	

ATTACHMENT E: SPECIFIC PROVISIONS FOR TOTAL MAXIMUM DAILY LOADS
 6. Revised Total Maximum Daily Loads for Indicator Bacteria, Project I –
 Twenty Beaches and Creeks in the San Diego Region (Including Tecolote Creek)

ADMINISTRATIVE DRAFT

Table 6.5 (Cont'd)
Interim Compliance Dates to Achieve Interim WQBELs

Watershed Management Area	Water Body	Segment or Area	Interim Compliance Dates	
			Interim Dry Weather WQBELs	Interim Wet Weather WQBELs
Penasquitos	Pacific Ocean Shoreline	Torrey Pines State Beach at Del Mar (Anderson Canyon)	April 4, 2016	April 4, 2021
		La Jolla Shores Beach at El Paseo Grande		
	La Jolla Shores Beach at Caminito del Oro			
	La Jolla Shores Beach at Vallecitos			
	La Jolla Shores Beach at Avenida de la Playa			
	at Casa Beach, Children's Pool			
	South Casa Beach at Coast Boulevard			
	Pacific Ocean Shoreline	Whispering Sands Beach at Ravina Street		
		Windansea Beach at Vista de la Playa		
		Windansea Beach at Bonair Street		
		Windansea Beach at Playa del Norte		
		Windansea Beach at Palomar Avenue		
		at Tourmaline Surf Park		
Pacific Beach at Grand Avenue				
Tecolote Creek	Entire reach and tributaries			
San Diego River	Forrester Creek	lower 1 mile	April 4, 2018	April 4, 2021
	San Diego River	lower 6 miles		
	Pacific Ocean Shoreline	at San Diego River mouth at Dog Beach		
San Diego Bay	Chollas Creek	lower 1.2 miles	April 4, 2018	April 4, 2021

(1) Submittals to Support TMDL Basin Plan Amendment

The Responsible Copermittees are encouraged to submit data to support the TMDL reopener scheduled for April 2016 including but not limited to data related to reference watershed monitoring and beneficial use usage frequency.

For the watersheds where there are no longer any impairments listed on the 2008 303(d) List, the Phase I MS4s and Caltrans are not required to submit a load reduction plan as part of the TMDL.

ATTACHMENT E: SPECIFIC PROVISIONS FOR TOTAL MAXIMUM DAILY LOADS
 6. Revised Total Maximum Daily Loads for Indicator Bacteria, Project I –
 Twenty Beaches and Creeks in the San Diego Region (Including Tecolote Creek)

ADMINISTRATIVE DRAFT**d. COMPLIANCE DETERMINATION**

Compliance with WQBELs or WLAs may be demonstrated via any one of the following methods:

- (1) There is no discharge from the MS4, or
- (2) Applicable effluent limitations are met, or
- (3) Receiving waters meet the applicable receiving water limitations or water quality objective, or
- (4) Loading from the MS4 is such that it does not cause water quality objective exceedances, or
- (5) Demonstration of elimination of controllable sources of indicator bacteria loading and application of Natural Source Exclusion Approach (NSEA), if applicable, or
- (6) Implementation of a Water Quality Improvement Plan determined by the Regional Board Executive Officer to comply with Provision II.A as described in Provision II.A.4.

The Phase I MS4s may demonstrate that their discharges are not causing the exceedances in the receiving waters by providing data from their discharge points to the receiving waters, by providing data collected at jurisdictional boundaries, and/or by using other methods accepted by the San Diego Water Board. Otherwise, at the end of the dry weather TMDL compliance schedule, the municipal Phase I MS4s will be held responsible and considered out of compliance unless other information or evidence indicates another controllable or uncontrollable source is responsible for the exceedances in the receiving waters. If controllable sources other than discharges from the municipal Phase I MS4s are identified before or after the end of the dry weather TMDL Compliance Schedule as causing the exceedances, those controllable sources will be responsible for reducing their bacteria loads and/or demonstrating that discharges from those sources are not causing the exceedances. The San Diego Water Board shall implement additional actions (e.g., issue enforcement actions, amend existing NPDES requirements or conditional waivers), as needed, to bring all controllable sources into compliance with the dry weather TMDLs.

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d-e. _____ SPECIFIC MONITORING AND ASSESSMENT REQUIREMENTS

The Bacteria Load Reduction Plans (BLRPs) and/or CLRPs to be submitted by the Copermittees and approved by the Regional Board Executive Officer contain monitoring programs. Implementation of those Regional Board-approved monitoring programs constitutes compliance with the Monitoring Station and Monitoring Procedure requirements, described below.

- (1) Monitoring and Assessment Requirements for Beaches
 - (a) Monitoring Stations

ADMINISTRATIVE DRAFT

For beaches addressed by these TMDLs, monitoring locations should consist of, at a minimum, the same locations used to collect data required under MS4 NPDES monitoring requirements and beach monitoring for Health and Safety Code section 115880.⁷⁵ If exceedances of the receiving water limitations are observed in the monitoring data, additional monitoring locations and/or other source identification methods must be implemented to identify the sources causing the exceedances. The additional monitoring locations and/or other source identification methods must also be used to demonstrate that the bacteria loads from the identified sources have been addressed and are no longer causing exceedances in the receiving waters.

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~~(i) The Responsible Copermitees may must designate the MS4 outfalls within their jurisdiction discharging to the Pacific Ocean Shoreline segments or areas listed in Table 6.0 as high priority non-storm water MS4 monitoring stations, in accordance with the requirements of Provision D.1 of this Order. Monitoring stations may be selected based on stations utilized under other monitoring programs. Outfalls may be monitored for follow up source identification, at minimum, as consistent with this Order.~~

ADMINISTRATIVE DRAFT

- ~~(ii) For the Pacific Ocean Shoreline segments or areas listed in Table 6.0 with MS4 outfalls, the Responsible Copermittees must establish at least one monitoring station within the receiving water. Monitoring stations may be selected based on stations utilized under other monitoring programs.~~

(b) Monitoring Procedures

- ~~(i) The Responsible Copermittees must collect dry weather monitoring samples from the receiving water monitoring stations at least monthly.~~

~~The Responsible Copermittees must collect wet weather monitoring samples from the receiving water monitoring stations for an adequate number of storm events that occur during the rainy season (i.e., October 1 through April 20) to represent wet weather conditions. At least one sample must be collected within the first 24 hours of the end of a storm event²⁷.~~

- ~~(i) The Responsible Copermittees must monitor receiving waters the effluent of the designated MS4 outfalls within their jurisdiction discharging during dry weather to the Pacific Ocean Shoreline segments or areas as listed in Table 6.0 in accordance with the dry weather jurisdictional monitoring set forth in the WQIP requirements of Provision D.1.a.(1)(b) of this Order. Samples required to be submitted to a laboratory for analysis must include analysis for total coliform, fecal coliform, and *Enterococcus* indicator bacteria.~~
- ~~(ii) The Responsible Copermittees must monitor, within the first 24 hours of each monitored storm event,²⁸ the receiving water effluent of the designated MS4 outfalls within their jurisdiction as discharging to the Pacific Ocean Shoreline segments or areas listed in Table 6.0 in accordance with the wet weather jurisdictional monitoring requirements of Provision D.1.b.(1)(b) of this Order. Samples required to be submitted to a laboratory for analysis must include analysis for total coliform, fecal coliform, and *Enterococcus* indicator bacteria monitoring requirements set forth in the WQIP.~~

- ~~(iii)(ii) The Responsible Copermittees must collect samples from the~~

²⁷ Wet weather days are defined by the TMDL as storm events of 0.2 inches or greater and the following 72 hours. The Responsible Copermittees may choose to limit their wet weather sampling requirements to storm events of 0.2 inches or greater, or also include storm events of 0.1 inches or greater as defined by the federal regulations [40CFR122.26(d)(2)(iii)(A)(2)].

²⁸ Wet weather days are defined by the TMDL as storm events of 0.2 inches or greater and the following 72 hours. The Responsible Copermittees may choose to limit their wet weather sampling requirements to storm events of 0.2 inches or greater, or also include storm events of 0.1 inches or greater as defined by the federal regulations [40CFR122.26(d)(2)(iii)(A)(2)].

ADMINISTRATIVE DRAFT

~~monitoring stations within the receiving water body for each dry weather and wet weather MS4 outfall monitoring event monitored.~~

Samples must be analyzed for total coliform, fecal coliform, and *Enterococcus* indicator bacteria.

(c) Assessment and Reporting Requirements

- (i) The Responsible Copermittees must analyze the dry weather and wet weather monitoring data to assess whether the interim and final QBELs for the Pacific Ocean Shoreline segments or areas listed in Table 6.0 have been achieved.

²² Commonly referred to as AB 411 monitoring

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- (ii) The monitoring and assessment results must be submitted as part of the Annual Reports required under Provision F.3.b of this Order.

(2) Monitoring and Assessment Requirements for Creeks and Creek Mouths

(a) Monitoring Stations

For creeks addressed by these TMDLs, monitoring locations should consist of, at a minimum, a location at or near the mouth of the creek (e.g., Mass Loading Station or Mass Emission Station) and one or more locations upstream of the mouth (e.g., Watershed Assessment Stations). If exceedances of the receiving water limitations are observed in the monitoring data, additional monitoring locations and/or other source identification methods must be implemented to identify the sources causing the exceedances. The additional monitoring locations and/or other source identification methods must also be used to demonstrate that the bacteria loads from the identified sources have been addressed and are no longer causing exceedances in the receiving waters.

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- ~~(i) The Responsible Copermittees must establish at least one receiving water monitoring station at or near the mouth of the creeks listed in Table 6.0. Monitoring stations may be selected based on stations utilized under other monitoring programs. Outfalls may be monitored for follow-up source identification, at minimum, as consistent with this Order.~~
- ~~(ii) The Responsible Copermittees must establish at least one receiving water monitoring station upstream of the station established for Specific Provision 6.d.(2)(a)(i). At least one monitoring station must be established for each Responsible Copermittee at the most downstream location within its jurisdiction, and one monitoring station at the most upstream location within its jurisdiction.~~

ADMINISTRATIVE DRAFT

~~(iii) The Responsible Copermittees may must identify the MS4 outfalls discharging to the segments or areas of the creeks and creek mouths listed in Table 6.0. The Responsible Copermittees must may identify the MS4 outfalls that are monitored in accordance with the dry weather jurisdictional monitoring requirements of Provision D.1.a.(1)(b) of this Order and the wet weather jurisdictional monitoring requirements of Provision D.1.b.(1)(a) of this Order under other monitoring programs and in accordance with the WQIP.~~

(b) Monitoring Procedures

- (i) The Responsible Copermittees must collect dry weather monitoring samples from the receiving water monitoring stations ~~at least monthly~~ according to the WQIP.
- ~~(i) The Responsible Copermittees must collect wet weather monitoring samples from the receiving water monitoring stations for an adequate number of storm events that occur during the rainy season (i.e., October 1 through April 20) to represent wet weather conditions. At least one sample must be collected within the first 24 hours of the end of a storm event²⁹ each storm event monitored, according to the WQIP.³⁰~~
- (ii) Samples collected from receiving water monitoring stations must be analyzed for ~~total coliform~~, fecal coliform, and *Enterococcus* indicator bacteria.

(c) Assessment and Reporting Requirements

- (i) The Responsible Copermittees must analyze the receiving water monitoring data to assess whether the interim and final receiving water WQBELs for the creeks and creek mouths listed in [Table 6.0](#) have been achieved.
- ~~(ii) If the receiving water WQBELs for the creeks and creek mouths listed in Table 6.0 have not been achieved, the Responsible Copermittees must review the MS4 outfall monitoring data to assess whether the interim and final effluent WQBELs have been achieved follow the process set forth in the WQIP.~~

²⁹ Wet weather days are defined by the TMDL as storm events of 0.2 inches or greater and the following 72 hours. The Responsible Copermittees may choose to limit their wet weather sampling requirements to storm events of 0.2 inches or greater, or also include storm events of 0.1 inches or greater as defined by the federal regulations [40CFR122.26(d)(2)(iii)(A)(2)].

³⁰ Wet weather days are defined by the TMDL as storm events of 0.2 inches or greater and the following 72 hours. The Responsible Copermittees may choose to limit their wet weather sampling requirements to storm events of 0.2 inches or greater, or also include storm events of 0.1 inches or greater as defined by the federal regulations [40CFR122.26(d)(2)(iii)(A)(2)].

ADMINISTRATIVE DRAFT

~~(iii) If receiving water WQBELs for the creeks and creek mouths listed in Table 6.0 have not been achieved, the Responsible Copermitttee must identify and incorporate additional MS4 outfall and receiving water monitoring stations and/or adjust monitoring frequencies to identify sources causing exceedances of the receiving water WQBELs actions to be implemented in the WQIP.~~

~~(iv)~~(ii) The monitoring and assessment results must be submitted as part of the Annual Reports required under Provision F.3.b of this Order.

ADMINISTRATIVE DRAFT**6. Enforcement Response Plans [Alternative to Provision E.6]**

Each Copermitttee must develop and implement an Enforcement Response Plan as part of its jurisdictional runoff management program document. The Enforcement Response Plan must describe the applicable protocols and options for enforcing compliance with the provisions of this Order. The Copermitttees may continue to utilize and implement established, equivalent guidelines and procedures for enforcement.

The Enforcement Response Plan must include the following:

a. Enforcement Response Plan Components

The Enforcement Response Plans shall include the following individual components:

- i. The Illicit Discharge Detection and Elimination Enforcement Components provided in Provision E.2.
- ii. The Development Projects Enforcement Component provided in provision E.3.

Existing enforcement plans or procedures may be used to partially or wholly satisfy the requirements of any Enforcement Response Plan component.

a. Enforcement Approaches and Options

Each Enforcement Response Plan component must describe the Copermitttee's approach to correcting noncompliance with its permits, applicable local ordinances, and this Order. It must describe protocols for progressively stricter responses, including, as applicable, timeframes allowed to bring areas or facilities into compliance. The enforcement process must include appropriate sanctions to compel compliance, such as:

- 1) Verbal and written notices of violation;
- 2) Cleanup requirements;
- 3) Fines
- 4) Bonding requirements;
- 5) Administrative and criminal penalties;
- 6) Liens;
- 7) Stop work orders; and
- 8) Permit and occupancy denials.

c. CORRECTION OF VIOLATIONS

- 1) Violations must be corrected in a timely manner with the goal of correcting them within 30 calendar days after the violations are discovered and prior to the next predicted rain event, when possible.
- 2) If more than 30 calendar days are required for compliance, then a

ADMINISTRATIVE DRAFT

rationale must be recorded in the applicable electronic database or tabular system used to track compliance.

d. ESCALATED ENFORCEMENT PRIORITIES

- 1) Each Enforcement Response Plan must include a definition of “escalated enforcement priorities”. Escalated enforcement priorities shall be defined to include any enforcement scenario where a violation or other non-compliance is determined to constitute a significant contribution to any of the highest water quality priorities identified in the Water Quality Improvement Plan. Escalated enforcement priorities may be defined differently for development planning; construction sites; commercial, industrial, and municipal sources; and residential management areas.
- 2) Where a violation involving a pollutant or stressor that has been identified as a highest water quality priority is not determined to represent an escalated enforcement priority, a rationale must be recorded in the applicable electronic database or tabular system used to track compliance.
- 3) High level enforcement actions must continue to escalate, as necessary, to compel compliance as soon as possible.

e. Reporting of Non-Compliant Sites

- (1) Each Copermittee must notify the San Diego Water Board in writing within 48 hours of issuing escalated enforcement (as defined in the Copermittee’s Enforcement Response Plan) to a construction site that poses a significant threat to water quality as a result of violations or other non-compliance with its permits and applicable local ordinances, and the requirements of this Order. Written notification may be provided electronically in email form.
- (2) Each Copermittee must notify the San Diego Water Board of non-filers under the Industrial General Permit and Construction General Permit by email to Nonfilers_R9@waterboards.ca.gov.

ADMINISTRATIVE DRAFT**5. Existing Development Management [Alternative to Provision E.5]**

Each Copermittee must implement an existing development management program that includes the following requirements:

a. Industrial, Commercial, and Municipal Sources**(1) Source Identification and Prioritization**

Each Copermittee must identify known sources and maintain an updated watershed-based inventory of its existing industrial, commercial, and municipal development that has the reasonable potential to discharge a pollutant load to and from the MS4. The use of an automated database system, such as GIS, is highly recommended. The inventory must, at a minimum, include:

- (a) Name, location (address and/or hydrological subarea) of each source;
- (b) A designation of the source as municipal, commercial, or industrial;
- (c) SIC Code or NAICS Code, if applicable;
- (d) Industrial General Permit NOI and/or WDID number, if applicable;
- (e) Identification of pollutants generated or potentially generated by the source;
- (f) Whether the source is adjacent to an ESA;
- (g) Whether the source is tributary to and within the same hydrologic subarea as a CWA section 303(d) water body segment and generates or potentially generates pollutants for which the water body segment is impaired; and
- (h) Whether the source contributes or potentially contributes to the highest water quality priorities identified in the Water Quality Improvement Plan;

(2) BMP Implementation and Maintenance

Each Copermittee must designate a minimum set of BMPs required for all inventoried existing development with the reasonable potential to discharge pollutant loads from their MS4, including special event venues. The designated minimum BMPs must be specific to facility types and pollutant-generating activities, as appropriate.

ADMINISTRATIVE DRAFT(a) Pollution Prevention

Each Copermittee must promote the use of pollution prevention methods, where appropriate.

(b) BMP Operation and Maintenance

- (i) Each Copermittee must properly operate and maintain, or require the proper operation and maintenance of designated BMPs at sources within its jurisdiction.
- (ii) Each Copermittee must implement a schedule of operation and maintenance activities for its MS4 and related structures (including but not limited to catch basins, storm drain inlets, detention basins, etc.), and verify proper operation of all its municipal structural treatment controls. Operations and maintenance activities may include:
 - [a] Inspections of MS4 and related structures;
 - [b] Cleaning of MS4 and related structures; and
 - [c] Proper disposal of materials removed from cleaning of MS4 and related structures.
- (iii) Each Copermittee must implement a schedule of operation and maintenance activities for public: streets, unpaved roads, paved roads, and paved highways and freeways within its jurisdiction.
- (iv) Each Copermittee must implement controls to prevent infiltration of sewage into the MS4 from leaking sanitary sewers. Copermittees that operate both a municipal sanitary sewer system and a MS4 must implement controls and measures to prevent and eliminate seeping sewage from infiltrating the MS4. Copermittees that do not operate both a municipal sanitary sewer system and a MS4 are encouraged to coordinate with sewerage agencies to keep themselves informed of relevant and appropriate maintenance activities and capital projects in their jurisdiction.

(c) Pesticides, Herbicides, and Fertilizers BMPs

Each Copermittee must implement procedures, or require the implementation of procedures, as appropriate, to reduce discharges of pollutants associated with the application, storage, and disposal of pesticides, herbicides and fertilizers at sources within its jurisdiction.

ADMINISTRATIVE DRAFT**(3) Measures to Address Highest Water Quality Priorities**

Each Copermittee must conduct or require measures as necessary to address sources or areas that discharge pollutants identified as contributing to the highest water quality priorities in the Water Quality Improvement Plan. These measures must be identified as applicable in each WQIP strategy, and may include any of the following:

(a) Copermittee Program Activities

Each Copermittee may make modifications to its program activities (e.g. increased or focused education, inspections, etc.) to address sources that discharge pollutants identified as contributing to the highest water quality priorities in the Water Quality Improvement Plan.

(b) Additional Control Measures

Each Copermittee may require additional pollution prevention measures and control measures at sources that discharge pollutants identified as contributing to the highest water quality priorities in the Water Quality Improvement Plan, including consideration of retrofit and channel rehabilitation and improvement opportunities, as identified in Provision 5.a.2.(c)

(c) Retrofit

Each Copermittee must develop a strategy to facilitate the implementation of retrofit projects. Existing development in high priority areas should be assessed for inclusion in the retrofit plan. Retrofit plans should focus on pollutants and areas identified as high priority within the Water Quality Improvement Plans, with the highest priority projects included in the Water Quality Improvement Plans.

- (i) Retrofit projects may be prioritized based on their relative benefit to water quality, feasibility, cost effectiveness, and community acceptance.
- (ii) Retrofit projects in the highest priority areas should be included in the review for the Water Quality Improvement Plan to provide additional pollutant removal from storm water discharges.

(d) Channel Rehabilitation and Improvement

Each Copermittee must develop a strategy to facilitate the implementation of channel rehabilitation and improvement projects within their jurisdiction. Existing channels in high priority areas should be assessed for inclusion in the channel rehabilitation and improvement plan. Channel rehabilitation and

ADMINISTRATIVE DRAFT

improvement plans should focus on pollutants and areas identified as high priority within the Water Quality Improvement Plans.

- (i) Channel rehabilitation and improvement projects may be selected to address hydromodification, restore wetland and riparian habitat, or to address other water quality issues prioritized in the Water Quality Improvement Plan.
- (ii) Channel rehabilitation and improvement projects may be prioritized based on their relative benefit to water quality, feasibility, cost effectiveness, and community acceptance.
- (iii) Channel rehabilitation and improvement projects in the highest priority areas should be included in the review for the Water Quality Improvement Plan to provide additional pollutant removal from storm water discharges.

(4) Inspection Requirements:

(a) Inspection Frequency

- (i) Each Copermittee must establish appropriate inspection frequencies for inventoried industrial, commercial, and municipal sources based on the potential for discharging pollutants via storm water and non-storm water discharges, and should reflect the priorities set forth in the Water Quality Improvement Plan.
- (ii) Each Copermittee must conduct inspections annually with a level of effort equivalent to 20% of their industrial, commercial, and municipal inventory combined¹². If facilities require multiple inspections during any given year, those additional inspections may count towards this total.
- (iii) Inventoried existing development must be inspected, as needed, in response to valid public complaints and findings from the Copermittee's municipal and contract staff inspections.
- (iv) Based upon inspection findings, each Copermittee must implement all follow-up actions (i.e. education and outreach, re-inspection,

¹ Excludes linear facilities (MS4 and roads).

ADMINISTRATIVE DRAFT

enforcement) as necessary to confirm compliance in accordance with its enforcement response plan pursuant to Provision E.6.

(b) Inspection Content

Inspections of industrial, commercial, and municipal facilities by the Copermittee may include the following:

- (i) Industrial, commercial, and municipal facilities name and location (address and hydrologic subarea);
- (ii) Inspection and re-inspection date(s);
- (iii) Assessment of compliance with its applicable local ordinances and permits related to non-storm water and storm water discharges and runoff;
- (iv) Assessment of BMPs implementation;
- (v) Verification of coverage under the Industrial General Permit (NOI and/or WDID number), when applicable;
- (vi)
- (vii) Visual observations of actual non-storm water discharges, if present;
- (viii) Visual observations of actual or potential discharge of pollutants, if present; and
- (ix) Visual observations of actual or potential illicit connections, if present.

(c) Inspection Tracking and Records

Each Copermittee must track all inspections and re-inspections at all inventoried industrial, commercial, and municipal facilities. The Copermittee must maintain all inspection records in an electronic database or tabular format, either in paper or electronic inspection records files, which must be made available to the San Diego Water Board upon request.

Inspection records must include the information necessary to effectively manage and implement the industrial, commercial, and municipal facilities inspection program, as described in each Copermittee's jurisdictional runoff management plan

ADMINISTRATIVE DRAFT**b. Residential Sources****(1) Source Identification and Prioritization:**

An inventory of residential sources within each Copermittees jurisdiction must be developed as follows:

(a) Designation of Residential Management Areas

Each Copermittee must divide areas of residential development into Residential Management Areas. Residential Management Areas may be designated by one or more of the following: Hydrologic Sub Area, land use (e.g. single family, multi family, rural, Common Interest Areas, or Home Owner Associations), or other accepted methods to be included in each Copermittee-approved jurisdictional runoff management plan.

(b) Prioritization of Residential Management Areas

Copermittees must prioritize Residential Management Areas for the purposes of prioritizing and directing their residential programs. Prioritization must consider whether the Residential Management Area contributes or potentially contributes to the highest water quality priorities identified in the Water Quality Improvement Plan, and consideration of other program information or information from other relevant programs:

- (c) A regularly updated map must be developed showing the locations of inventoried Residential Management Areas, watershed boundaries, and water bodies at or near them.

(2) BMP Implementation and Maintenance**(a) Designate BMPs**

Each Copermittee must designate and require the implementation of a minimum set of BMPs for all residential sources or target audiences with the reasonable potential to discharge significant pollutant loads from their MS4. The designated minimum BMPs must be source-specific, and must address each of the following as appropriate.

(i) Pollution Prevention

Each Copermittee must promote the use of pollution prevention

ADMINISTRATIVE DRAFT

methods, where appropriate.

(ii) BMP Operation and Maintenance

Each Copermittee must operate and maintain, or require the operation and maintenance of designated BMPs for sources within its jurisdiction.

(iii) Pesticides, Herbicides, and Fertilizers BMPs

Each Copermittee must require and encourage, as appropriate, the implementation of practices to reduce discharges of pollutants associated with the application, storage, and disposal of pesticides, herbicides and fertilizers at residential sources within its jurisdiction.

(3) Measures to Address Highest Water Quality Priorities

Each Copermittee must conduct or require measures as necessary to address sources or areas that discharge pollutants identified as contributing to the highest water quality priorities in the Water Quality Improvement Plan. These measures must be identified as applicable in each WQIP strategy, and may include any of the following:

(a) Copermittee Program Activities

Each Copermittee may make modifications to its program activities (e.g. increased or focused education, inspections, etc.) to address sources that discharge pollutants identified as contributing to the highest water quality priorities in the Water Quality Improvement Plan.

(b) Additional Control Measures

Each Copermittee may require additional pollution prevention and control measures at sources that discharge pollutants identified as contributing to the highest water quality priorities in the Water Quality Improvement Plan.

(c) Retrofit

Each Copermittee must encourage through education or other means the implementation of retrofit projects at residential sources or areas.

ADMINISTRATIVE DRAFT

(4) Residential Management Area Oversight:

(a) Residential Area Assessment

Each Copermittee must conduct representative evaluations (e.g. visual observations, surveys, water use analysis, if available, and other data) of its prioritized RMAs to update implementation strategies.

(b) Residential Program Update

Within two years, each Copermittee must develop and submit for Regional Board approval an updated residential program strategy based on assessment findings. Until Copermittees implement an updated residential program, they must continue performing their existing programs.

(c) Follow up Actions

Each Copermittee must prioritize and implement its follow up actions (e.g. education and outreach, re-assessment, enforcement) in accordance with its Enforcement Response Plan pursuant to Provision E.6.

(d) Assessment Tracking and Records

Assessment records must be tracked and sufficiently detailed in order to determine compliance with the requirements of this Order and any progress made toward the modification of residential management strategies, or addressing the highest water quality priorities identified in the Water Quality Improvement Plan.

c. Existing Development Enforcement

Each Copermittee must enforce its legal authority established pursuant to Provision E.1 for all its inventoried existing development identified by the Copermittee as having the reasonable potential to discharge pollutant loads from the MS4 within their jurisdiction, in accordance with its Enforcement Response Plan pursuant to Provision E.6.

ORANGE COUNTY PERMITTEES

ATTACHMENT C

MONITORING PRINCIPLES

Orange County Monitoring Principles

The Permittees from San Diego County have developed an alternative monitoring program from the one identified in the Draft Administrative Order. While we agree in many cases with the alternative approach, the Orange County Permittees do not believe that this proposal represents a model for the permit that would be appropriate for Orange County, and think any monitoring program should reflect the following principles:

1. Support the question-driven monitoring and assessment program using the SMC model stormwater monitoring program as guidance. The WQIP should be the vehicle for establishing the monitoring program to support the watershed priorities. As such the proposed monitoring program should include:
 - a. Wet Weather and Dry Weather Monitoring
 - b. Receiving Water and Outfall Monitoring
 - c. Supplemental Monitoring as appropriate
 - d. Scope and schedule for monitoring
2. Monitoring should focus on the watershed and constituents of concern. Therefore initial monitoring should focus on the receiving water condition to identify the critical water quality issues (both dry and wet weather) and from there move to outfall monitoring to better support the stormwater program to address the critical water quality issues.
3. Monitoring should provide the opportunity to measure the overall watershed condition while being supported by a focused and complimentary outfall monitoring program that evaluates the sources and stressors affecting watershed condition. The assessment and feedback approach using a question driven framework would follow this general framework:
 - a. Provide a comprehensive regional assessment of receiving waters in years 1 of the permit term (assessment).
 - b. Conduct intensive outfall monitoring within each watershed or hydrologic subarea on an annual basis or rotating basis in the intervening years (sources and stressors).
 - c. Conduct a comprehensive re-assessment of receiving water conditions in year 5 of the permit term to measure progress in addressing outfall discharges (feedback).
4. Dry weather monitoring should have the following objectives:
 - a. As a diagnostic tool to support the Illegal Discharge / Illicit Connection (ID/IC) program
 - i. Develop action levels that reflect a probabilistic and targeted sampling program.
 - ii. Conduct investigation to identify the discharge.
 - b. As an assessment tool to effectively prohibit non-stormwater discharges.
 - i. Develop action levels that reflect protection of beneficial uses and watershed water quality issues.
 - ii. Conduct investigation to identify the source(s).
5. Wet weather monitoring should have the following objectives:
 - a. Assess the long term changes in the receiving water
 - i. Conduct comprehensive monitoring at Mass Load Stations (MLS) every five years
 - b. Assess the impacts of stormwater discharges on the receiving water
 - i. Conduct outfall monitoring on an annual basis.

Although we have not provided specific comments on the monitoring provision of the Draft Administrative Order our assessment of the future Tentative Order will be based on these principles.

Walsh, Laurie@Waterboards

From: Suppes, Christy <Christy.Supes@ocpw.ocgov.com>
Sent: Monday, September 17, 2012 4:08 PM
To: Walsh, Laurie@Waterboards
Cc: Gibson, David@Waterboards; Felix, Tony@Waterboards; Crompton, Chris; Skorpanich, Mary Anne; Boon, Richard; Onuma, Kevin; 'jon.vanrhyn@sdcountry.ca.gov'; 'Padres, Claudio'; 'syhasenin@sandiego.gov'; Ruano, Betty; bfowler@danapoint.org; Crompton, Chris; 'Chris Macon - Laguna Woods'; Suppes, Christy; 'Devin Slaven - Lake Forest'; 'E. (Max) Maximous - Rancho Santa Margarita'; Fortuna, James; Gin, Vincent; Sharp, Grant; 'Humza Javed - Laguna Hills'; 'Jean Jambon - Laguna Niguel'; Voss, Jenna; Shook, Jennifer; 'Joe Ames - Mission Viejo'; jwhitman@cityofalisoviejo.com; 'Jonathan Orduna - Laguna Niguel'; krosenfield@ci.laguna-hills.ca.us; 'Leslie Keane - Laguna Woods'; 'Lisa Zawaski - Dana Point'; 'Luis Estevez - Lake Forest'; Skorpanich, Mary Anne; 'Mary Vondrak - San Clemente'; 'Mike Phillips - Laguna Beach'; 'Moy Yahya - Aliso Viejo'; 'Nancy Palmer - Laguna Niguel'; 'Nasser Abbaszadeh - San Juan Capistrano'; Nguyen, Duc; 'Peter Meier - Lake Forest'; 'Rae Beimer - Rancho Santa Margarita'; Boon, Richard; 'Richard Schlesinger - Mission Viejo'; 'Tom Bonigut - San Clemente'; 'Tracy Ingebrigtsen - Laguna Beach'; Yi, Greg; 'Ziad Mazboudi - San Juan Capistrano'
Subject: County of Orange Comments Addendum - Administrative Draft Order No. R9-2012-0111
Attachments: OC Comment Addendum - Draft Admin Order R9-2012-0011.pdf; OC Comment - Attachment A-Addendum.pdf



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Santa Ana, CA
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September 17, 2012

By E-Mail and U.S. Mail

Laurie Walsh
California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4353

Subject: County of Orange Comment Submittal on the Administrative Draft Municipal Separate Storm Sewer (MS4) Permit (Tentative Order No. R9-2012-0011)

Dear Ms. Walsh:

On September 14, the County provided you with comments on the subject Permit. Since that time, the County has been provided with the comment letter prepared by Rancho Mission Viejo. This comment letter requests inclusion of language from current Order No. R9-2009-0002, specifically, *Provision F.1.d.(11) Where a development project.....*

The County supports the inclusion of this provision in the future Tentative Order. Attached is an Addendum modifying our comments to include a provision that would continue the current alternative compliance option for watershed-based planning approaches for land development.

Christy Suppes

OC Watershed Program - Stormwater External

2301 N. Glassell St., Orange, CA 92865

(714) 955-0673 tel / (714) 955-0639 fax

christy.suppes@ocpw.ocgov.com

www.ocwatersheds.com

Please note my working hours are 7:30 AM - 5:00 PM, Monday - Thursday, and 7:30 AM - 4:00 PM every other Friday.
For the month of September, I will be in the office on the following Friday(s): 14th and 28th.

ORANGE COUNTY PERMITTEES

A - ADDENDUM

REDLINE/STRIKEOUT DRAFT PERMIT AND COMMENT TABLE

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
102a	E.3.c.5	71	Alternative Compliance for Watershed-Based Planning	Inclusion of new section “E.3.c.5 Alternative Compliance for Watershed-Based Planning” is needed to maintain continuity with same provision in R9-2009-0002 F.1.d(11)	<p>As shown in the attached revised Permit, include additional language, as follows:</p> <p>(5) Alternative Compliance for Watershed-Based Planning</p> <p>Where a development project, greater than 100 acres in total project size or smaller than 100 acres in size yet part of a larger common plan of development that is over 100 acres, has been prepared using watershed and/or sub-watershed based water quality, hydrologic, and fluvial geomorphologic planning principles that implement regional LID BMPs in accordance with the sizing and location criteria of this Order and acceptable to the Regional Board, such standards shall govern review of projects with respect to Provision E.3 of this Order and shall be deemed to satisfy this Order’s requirements for LID site design, buffer zone, infiltration and groundwater protection standards, source control, treatment control, and hydromodification control standards. Regional BMPs must clearly exhibit that they will not result in a net impact from pollutant loadings over and above the impact caused by capture and retention of the design storm. Regional BMPs may be used provided that the BMPs capture and retain the volume of runoff produced from the 24-hour 85th percentile storm event as defined in Provision E.3.c. and</p>

¹ Refers to the page numbers of the original Administrative Draft issued by the Regional Board on April 9, 2012

COUNTY OF ORANGE COMMENTS ON TENTATIVE ORDER NO. R9-2012-0011					
Comment #	Permit Section	Permit Page ¹	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
					that such controls are located upstream of receiving waters. Any volume that is not retained by the LID BMPs, up to the design capture volume, must be treated using LID biofiltration sized for the design capture volume that has not been retained. Where regional LID implementation has been shown to be technically infeasible (per Section E.3.c.(4)(b)) any volume up to and including the design capture volume, not retained by LID BMPs, not treated by LID biofiltration, must be treated using conventional treatment control BMPs in accordance with Section E.3.c.(2)(d) and participation in the mitigation program in Section D.3.c.(4)(c).

ADMINISTRATIVE DRAFT

for the completion of offsite mitigation projects, including milestone dates to identify, fund, design, and construct the projects. PDP implemented offsite mitigation projects must be completed upon completion of the PDP, unless a longer period is authorized by the San Diego Water Board. The timing of mitigation projects associated with a Copermitee offsite mitigation program will be developed by the Copermitees as part of developing their offsite mitigation program.

(iv) *Mitigation Fund*

A Copermitee may choose to implement additional mitigation programs (e.g., pollutant credit system, mitigation fund) as a means for developing and implementing offsite mitigation projects, provided the projects conform to the requirements for project locations, types, and timing described above.

(5) Alternative Compliance for Watershed-Based Planning

Where a development project, greater than 100 acres in total project size or smaller than 100 acres in size yet part of a larger common plan of development that is over 100 acres, has been prepared using watershed and/or sub-watershed based water quality, hydrologic, and fluvial geomorphologic planning principles that implement regional LID BMPs in accordance with the sizing and location criteria of this Order and acceptable to the Regional Board, such standards shall govern review of projects with respect to Provision E.3 of this Order and shall be deemed to satisfy this Order's requirements for LID site design, buffer zone, infiltration and groundwater protection standards, source control, treatment control and hydromodification control standards. Regional BMPs must clearly exhibit that they will not result in a net impact from pollutant loadings over and above the impact caused by capture and retention of the design storm. Regional BMPs may be used provided that the BMPs capture and retain the volume of runoff produced from the 24-hour 85th percentile storm event as defined in Provision E.3.c. and that such controls are located upstream of receiving waters. Any volume that is not retained by the LID BMPs, up to the design capture volume, must be treated using LID biofiltration sized for the design capture volume that has not been retained. Where regional LID implementation has been shown to be technically infeasible (per Section E.3.c.(4)(b)) any volume up to and including the design capture volume, not retained by LID BMPs, nor treated by LID biofiltration, must be treated using conventional treatment control BMPs in accordance with Section E.3.c.(2)(d) and participation in the mitigation program in Section E.3.c.(4)(c).

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September 17, 2012

By E-Mail and U.S. Mail

Laurie Walsh
California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4353

Subject: County of Orange Comment Submittal on the Administrative Draft Municipal Separate Storm Sewer (MS4) Permit (Tentative Order No. R9-2012-0011)

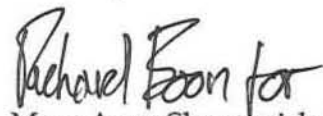
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The County supports the inclusion of this provision in the future Tentative Order. Attached is an Addendum modifying our comments to include a provision that would continue the current alternative compliance option for watershed-based planning approaches for land development.

Please contact me directly if you have any questions. For technical questions, please contact Chris Crompton at (714) 955-0630 or Richard Boon at (714) 955-0670.

Sincerely,



Mary Anne Skorpanich, Manager
OC Watersheds

Attachments: A - Addendum: Redline/Strikeout Draft Permit and Comment Table

Cc: David Gibson, San Diego Regional Board
Tony Felix, San Diego Regional Board
South Orange County Permittees
Orange County Technical Advisory Committee
Kevin Onuma, Orange County Flood Control District