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California Regional Water Quality Control Board

San Diego Region

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http:// www.waterboards.ca.gov/sandiego

November 30, 2009

Certified Mail – Return Receipt
Article No. 7009 1410 0002 2347 6804

In reply refer to: Place ID 255223 fmelbourn

Chandra L. Wallar
Deputy Chief Administrative Officer
County of San Diego
Land Use and Environment Group
1600 Pacific Highway, Room 212
San Diego, California 92101

NOTICE OF HEARING AND ISSUANCE OF COMPLAINT NO. R9-2009-0089 FOR ADMINISTRATIVE CIVIL LIABILITY AGAINST THE COUNTY OF SAN DIEGO FOR VIOLATIONS OF ORDER NO. R9-2007-0001

Dear Ms. Wallar:

Enclosed find Complaint No. R9-2009-0089 (Complaint) for Administrative Civil Liability against the County of San Diego (County) for $77,800 for alleged violations of Order No. R9-2007-0001, *NPDES No. CAS0108758, Waste Discharge Requirements for Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of San Diego, the Incorporated Cities of San Diego County, the San Diego Unified Port District, and the San Diego County Regional Airport Authority*. The Violations are described in the Complaint and the attached Technical Analysis to the Complaint.

Waiver of Hearing

Pursuant to Water Code section 13323, the California Regional Water Quality Control Board, San Diego Region (Regional Board) will hold a hearing on the Complaint no later than ninety (90) days after it is issued. The County may elect to waive its right to a hearing before the Regional Board. Waiver of the hearing constitutes admission of the validity of the allegation of violations in the Complaint and acceptance of the assessment of civil liability in the amount of $77,800 as set forth in the Complaint. For the Regional Board to accept the waiver of the County's right to a public hearing, the County must submit the following to the Regional Board by 5 p.m., **Monday, January 4, 2010.**

1. The enclosed waiver form signed by an authorized agent of the County;
2. A check for the full amount of civil liability of $77,800 made out to the "State Water Resources Control Board"; and

3. Verification that the enclosed public notice has been published in the San Diego Union-Tribune.

Public Hearing
Alternatively, if the County elects to proceed to a public hearing, a hearing is tentatively scheduled to be held at the Regional Board meeting on February 10, 2010. The meeting is scheduled to convene at the Regional Board Office, 9174 Sky Park Court, Suite 100, San Diego, California and the meeting will begin at 9 a.m. At that time, the Regional Board will accept testimony and public comment and decide whether to affirm, reject, or modify the proposed liability, or whether to refer the matter for judicial civil action.

Enclosed you will find procedures I am recommending that the Regional Board follow in conducting the hearing. Please note that comments on the proposed procedures are due by **December 14, 2009**, to the Regional Water Board's advisory attorney, Catherine Hagan at the address indicated in the hearing procedures.

Please contact Mr. Frank Melbourn of my staff at (858) 467-2973 or by e-mail at fmelbourn@waterboards.ca.gov if you have any questions concerning this matter. The heading portion of this letter includes a Regional Board code number noted after "In reply refer to:" In order to assist us in the processing of your correspondence please include this code number in the heading or subject line portion of all correspondence and reports to the Regional Board pertaining to this matter.

Respectfully,

MICHAEL P. McCANN
Assistant Executive Officer

MPM:ftm

Enclosures: 1. Complaint No. R9-2009-0089
2. Technical Analysis
3. Waiver of Public Hearing Form
4. Newspaper Notice of Waiver of Public Hearing
5. Proposed Hearing Procedures

cc: Sara Agahi, Co. of San Diego, sara.agahi@sdcounty.ca.gov
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Order No.	R9-2007-0001 (San Diego Municipal NPDES Storm Water Permit)
NPDES No.	CAS0108758
CIWQS Place ID	255223 (County of San Diego MS4)
WDID	9 0000510S1
Reg. Measure No.	372074 (ACL Complaint R9-2009-0089), 214386 (R9-2007-0001 Co. of San Diego)
Party ID	39617 (County of San Diego Dept. of Environmental Health)
Person ID	515427 (Chandra Wallar)

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

IN THE MATTER OF:	**)**	**COMPLAINT NO. R9-2009-0089**
	)	**FOR**
COUNTY OF SAN DIEGO	**)**	**ADMINISTRATIVE CIVIL LIABILITY**
MUNICIPAL SEPARATE STORM	**)**	
SEWER SYTEM	**)**	**VIOLATIONS OF**
	)	**ORDER NO. R9-2007-0001**

THE COUNTY OF SAN DIEGO IS HEREBY NOTIFIED THAT:

1. The County of San Diego is alleged to have violated Water Code section 13385(a)(2) for which the California Regional Water Quality Control Board, San Diego Region (Regional Board) may impose civil liability pursuant to Water Code section 13385(c)(1).

2. On January 24, 2007, the Regional Board adopted Order No. R9-2007-0001, *NPDES No. CAS0108758, Waste Discharge Requirements For Discharges Of Urban Runoff From The Municipal Separate Storm Sewer Systems (MS4s) Draining The Watersheds Of The County Of San Diego, The Incorporated Cities Of San Diego County, The San Diego Unified Port District, and The San Diego County Regional Airport Authority.* The County is a named Copermittee to Order No. R9-2007-0001.

3. The County owns and operates a municipal separate storm sewer system through which it discharges urban runoff into waters of the United States within the San Diego Region pursuant to Order No. R9-2007-0001.

4. Order No. R9-2007-0001, Provision D.2.a.(1) requires the County to do the following: "Within 365 days of adoption of this Order, each Copermittee shall review and update its grading ordinances and other ordinances as necessary to achieve full compliance with this Order, including requirements for the implementation of all designated BMPs and other measures." On December 12, 2007, the Regional Board adopted Addendum No. 1 to Order No. R9-2007-0001 granting the Copermittees' request for an additional 60 days to update their ordinances due to the regional wildfires of November 2007. Therefore, the ordinance review and update was to be completed no later than March 23, 2008.

5. Order No. R9-2007-0001 Attachment C, Definitions, defines "Wet Season" as "October 1 through April 30 of each year." "Wet Season" and "Rainy Season" are used interchangeably throughout the permit.

6. Order No. R9-2007-0001, Provision D.2.c.(3) requires the County to do the following: "Each Copermittee shall implement, or require the implementation of, the designated minimum BMPs and any additional measures necessary to

comply with this Order at each construction site within its jurisdiction year round. However, BMP implementation requirements can vary based on Wet and Dry Seasons. Dry Season BMP implementation must plan for and address rain events that may occur during the Dry Season. Provision D.2.c.(1)(b)(iii) states that "[s]lope stabilization on all inactive slopes during the Rainy Season and during rain events in the Dry Season" is one of the designated minimum set of BMPs at construction sites.

7. Order No. R9-2007-0001, Provision D.2.d.(1-3) requires the County to do the following:

"(1) During the Wet Season, each Copermittee shall inspect at least biweekly (every two weeks), all construction sites within its jurisdiction meeting the following criteria:

(a) All sites 50 acres or more in size and grading will occur during the Wet Season;

(b) All sites 1 acre or more, and tributary to a CWA section 303(d) water body segment impaired for sediment or within or directly adjacent to or discharging directly to a receiving water within an ESA; and

(c) Other sites determined by the Copermittees or the Regional Board as a significant threat to water quality. In evaluating threat to water quality, the following factors shall be considered:

i. soil erosion potential;
ii. site slope;
iii. project size and type;
iv. sensitivity of receiving water bodies;
v. proximity of receiving water bodies;
vi. non-storm water discharges;
vii. past record of non-compliance by the operators of the construction site; and
viii. any other relevant factors.

(2) During the Wet Season, each Copermittee shall inspect at least monthly, all construction sites with one acre or more of soil disturbance not meeting the criteria specified above in section D.2.c.(1).

(3) During the Wet Season, each Copermittee shall inspect as needed, construction sites less than 1 acre in size."

8. On September 30, 2008, the County informed the Regional Board in its Jurisdictional Urban Runoff Management Plan, Annual Report Fiscal Year 2007-2008 (Report) that it began complying with Order No. R9-2007-0001's construction site inspection requirements on July 1, 2007.

9. On October 18, 2000, the County's Department of Public Works issued a Director's Letter of Instruction (DLI) to provide guidance to County staff in implementing the County's storm water program as required by Order No. R9-2007-0001, including inspecting "developer and single-family grading permits and other construction activities." The DLI was revised on January 8, 2008, and is scheduled to sunset on January 8, 2014.

10. This Administrative Civil Liability Complaint is issued under authority of Water Code section 13323.

ALLEGATIONS

11. Failure to Provide Adequate Authority to Achieve Full Compliance with the Order
The County violated Order No. R9-2007-0001 Provision D.2.a.(1) on March 24, 2008, when it amended its storm water ordinance on March 12, 2008, by changing the definition of "Rainy Season" from "October 1 through April 30" to "November 11 through April 30" contrary to Order No. R9-2007-0001's definition of "October 1 through April 30 of each year." On August 5, 2009, the County corrected the definition by amending its ordinance. Therefore, the days of violation are 498 (March 24, 2008, to August 4, 2009).

12. Failure to Require Construction Site BMPs During the Wet Season
The County violated Order No. R9-2007-0001 Provision D.2.c.(3) by failing to require "slope stabilization on all inactive slopes during the Rainy Season" from October 1, 2007, to November 10, 2007, and from October 1, 2008, to November 10, 2008. The DLI states that "[d]uring the Non-Rainy Season from May 1 through November 10, the Developer may opt to employ 'weathered triggered' action plans[1] in lieu of fully deployed BMPs." As a result, the County allowed Developers to leave inactive slopes unprotected from October 1 to November 10 in 2007 and 2008, if the Developer implemented a "weather triggered" action plan. Therefore, the days of violation are 80 (October 1 to November 10, 2007, and October 1 to November 10, 2008).

13. Failure to Inspect Construction Sites During the Wet Season
The County violated Order No. R9-2007-0001 Provision D.2.d.(1-3) by failing to inspect construction sites during the Wet Season from October 1, 2007, to November 10, 2007, and from October 1, 2008, to November 10, 2008, because

[1] A "weather triggered" action plan allows the developer to store on site 125% of the necessary BMP materials that are to be deployed within 48 hours of a 50% chance or greater rain event of 0.5 inches or more.

the County's inspection frequencies were based upon the County's Wet Season and therefore didn't begin until November 11. Therefore, the days of violation are 80 (October 1 to November 10, 2007, and October 1 to November 10, 2008).

14. Pursuant to Water Code section 13385, the maximum civil liability that the Regional Board may impose for a violation of a waste discharge requirement is $10,000 per day of violation. Therefore the maximum liability that may be imposed by the Regional Board for the violations alleged in Paragraphs 11 through 13 is as follows: Paragraph 11: $4.98 million; Paragraph 12: $800,000; and Paragraph 13: $800,000. The total maximum liability that the Regional Board may impose for these violations is $6.58 million.

15. The amount of discretionary assessment is based upon consideration of factors described in Water Code section 13385(e) as applied to the allegations and described further in the technical analysis.

PROPOSED CIVIL LIABILITY

16. Based on the considerations of the factors listed in section 13385 of the Water Code, civil liability should be imposed on the County of San Diego by the Regional Board in the following amounts: $49,800 ($100 per day of violation) for the violation alleged in Paragraph No. 11; $8,000 ($100 per day of violation) for the violation alleged in Paragraph No. 12; and $20,000 ($250 per day of violation) for the violation alleged in Paragraph No. 13. The total liability for all alleged violations is $77,800. The proposed civil liability will permit the recovery of costs incurred by Regional Board staff in investigating the claims and in pursuing this enforcement action.

Dated this 30th day of November 2009.

MICHAEL P. McCANN, P.E.
Assistant Executive Officer

Signed pursuant to the authority delegated by the Executive Officer to the Assistant Executive Officer.

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

Technical Analysis for Proposed Administrative Civil Liability Contained in Complaint No. R9-2009-0089 County of San Diego

Violations of Order No. R9-2007-0001

November 25, 2009

by
Frank Melbourn
Water Resource Control Engineer
Compliance Assurance Unit

1. INTRODUCTION

This technical analysis provides a summary of factual and analytical evidence supporting administrative assessment of civil liability in the amount of **$77,800** against the County of San Diego (County) pursuant to Water Code section 13385 for violations of California Regional Water Quality Control Board, San Diego Region (Regional Board) *Order No. R9-2007-0001, NPDES No. CAS0108758, Waste Discharge Requirements for Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of San Diego, the Incorporated Cities of San Diego County, the San Diego Unified Port District, and the San Diego County Regional Airport Authority* (Permit, See **Exhibit 1**) as alleged in Complaint No. R9-2009-0089 (Complaint, See **Exhibit 2**).

On November 16, 1990, the United States Environmental Protection Agency (US EPA) amended its National Pollutant Discharge Elimination System (NPDES) Permit regulations to include permit application requirements for storm water discharges (40 CFR Parts 122, 123, and 124). The regulations require operators of large and medium municipal separate storm sewer systems (MS4s)[1] to obtain a NPDES permit and to reduce pollutants in storm water discharges to the Maximum Extent Practicable (MEP)[2] to achieve water quality standards. The County owns and operates a MS4 through which it discharges urban runoff to waters of the United States within the San Diego Region. Therefore, after receiving a report of waste discharge from the County, the Regional Board adopted the Permit on January 24, 2007. The Permit named the County, the incorporated cities of San Diego County, the San Diego Unified Port District, and the San Diego County Regional Airport Authority as Copermittees. The Permit renewed NPDES Permit No. CAS0108758, which was first issued by the Regional Board on July 16, 1990 (Order No. 90-42), and then renewed on February 21, 2001 (Order No. 2001-01).

[1] The County satisfies the federal definition of a "large municipal separate storm sewer system." See 40 CFR 122.26(b)(4)(ii).

[2] Maximum Extent Practicable (MEP) – The technology-based standard established by Congress in CWA section 402(p)(3)(B)(iii) that operators of MS4s must meet. Technology-based standards establish the level of pollutant reductions that dischargers must achieve, typically by treatment or by a combination of source control and treatment control Best Management Practices (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 Best Available Technology (BAT). A definition for MEP is not provided either in the statute or in the regulations. Instead the definition of MEP is dynamic and will be defined by the following process over time: municipalities propose their definition of MEP by way of their urban runoff management programs. Their total collective and individual activities conducted pursuant to the urban runoff management programs becomes their proposal for MEP as it applies both to their overall effort, as well as to specific activities (e.g., MEP for street sweeping, or MEP for MS4 maintenance). In the absence of a proposal acceptable to the Regional Board, the Regional Board defines MEP. See Attachment C to the Permit.

2. ALLEGATIONS

The following allegations against the County are the basis for assessing administrative civil liability pursuant to Water Code section 13385, and also appear in the Complaint.

2.1. County Failed to Provide Adequate Authority to Achieve Full Permit Compliance
The County violated Permit Provision D.2.a.(1) on March 24, 2008[3], when it amended its storm water ordinance on March 12, 2008, by changing the definition of "Rainy Season" from "October 1 through April 30" to "November 11 through April 30" contrary to the Permit's definition of "October 1 through April 30 of each year[4]." On August 5, 2009, the County corrected the definition to comply with the Permit. Therefore, the days of violation are 498 (March 24, 2008, to August 4, 2009).

2.2. County Failed to Require Construction Site BMPs[5] During the Wet Season
The County violated Permit Provision D.2.c.(3) by failing to require "slope stabilization on all inactive slopes during the Rainy Season" from October 1, 2007, to November 10, 2007, and from October 1, 2008, to November 10, 2008. The County Department of Public Works Director's Letter of Instruction (DLI, See **Exhibit 4**) which took effect on October 18, 2000, states that "[d]uring the Non-Rainy Season from May 1 through November 10, the Developer may opt to employ 'weathered triggered' action plans[6] in lieu of fully deployed BMPs." As a result, the County allowed Developers to leave inactive slopes unprotected from October 1 to November 10 in 2007 and 2008, if the Developer implemented a "weather triggered" action plan. Therefore, the days of violation are 80 (October 1 to November 10, 2007, and October 1 to November 10, 2008).

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[3] On December 12, 2007, the Regional Board adopted Addendum No. 1 to Order No. R9-2007-0001 (Order) that extended various Order due dates by 60 days at the Copermittees' request in recognition of the Copermittees' staff being diverted to emergency response as a result of the November 13, 2007, wildfires. See **Exhibit 3**, Addendum No. 1. Specifically, paragraph 1.b. of the Addendum requires Copermittees to review and update their grading ordinances and other ordinances as necessary to achieve full compliance with the Order within 425 days of adoption of the Order. The Order was adopted on January 24, 2007, therefore the County was required to review and update its ordinance no later than March 23, 2008.

[4] Permit Attachment C, Definitions, defines "Wet Season" as "October 1 through April 30 of each year." Note "Wet Season" and "Rainy Season" are used interchangeably throughout the Permit.

[5] Best Management Practices (BMPs) "means 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." See 40 CFR 122.2.

[6] A "weather triggered" action plan allows the developer to store on site 125% of the necessary BMP materials that are to be deployed within 48 hours of a 50% chance or greater rain event of 0.5 inches or more.

2.3. County Failed to Inspect Construction Sites During the Wet Season
The County violated Permit Provision D.2.d.(1-3) by failing to inspect construction sites during the Wet Season from October 1, 2007, to November 10, 2007, and from October 1, 2008, to November 10, 2008, because the County's inspection frequencies were based upon the County's Wet Season and therefore didn't begin until November 11. Therefore, the days of violation are 80 (October 1 to November 10, 2007, and October 1 to November 10, 2008).

Each of the allegations was outlined in Notice of Violation (NOV) No. R9-2008-0164, issued on December 23, 2008, to the County of San Diego.

3. DETERMINATION OF ADMINISTRATIVE CIVIL LIABILITY

Pursuant to Water Code section 13385(a)(1-3),

"Any person who violates any of the following shall be liable civilly in accordance with this section:
1. Section 13375 or 13376.
2. Any waste discharge requirements or dredged or fill material permit issued pursuant to this chapter or any water quality certification issued pursuant to Section 13160.
3. Any requirements established pursuant to Section 13383."

Furthermore, Water Code section 13385(c) provides that

"Civil liability may be imposed administratively by the state board or a regional board pursuant to Article 2.5 (commencing with Section 13323) of Chapter 5 in an amount not to exceed the sum of both of the following:
(1) Ten thousand dollars ($10,000) for each day in which the violation occurs.
(2) Where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars ($10) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons."

Water Code section 13385(e) requires the Regional Board to consider several factors when determining the amount of civil liability to impose. These factors include: "…the nature, circumstances, extent, and gravity of the violation or violations, whether the discharge is susceptible to cleanup or abatement, the degree of toxicity of the discharge, and, with respect to the violator, the ability to pay, the effect on its ability to continue its business, any voluntary cleanup efforts

undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters that justice may require. At a minimum, liability shall be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation."

3.1. ALLEGATION 1: County Failed to Provide Adequate Authority to Achieve Full Permit Compliance

The County violated Permit Provision D.2.a.(1) on March 24, 2008, when it amended its storm water ordinance on March 12, 2008, by changing the definition of "Rainy Season" from "October 1 through April 30" to "November 11 through April 30" contrary to the Permit's definition of "October 1 through April 30 of each year." On August 5, 2009, the County corrected the definition to comply with the Permit. Therefore, the days of violation are 498 (March 24, 2008, to August 4, 2009).

3.1.1. Nature, Circumstances, Extent, and Gravity of the Violation

Permit Provision D.2.a.(1) requires the County to do the following: "Within 365 days of adoption of this Order, each Copermittee shall review and update its grading ordinances and other ordinances as necessary to achieve full compliance with this Order, including requirements for the implementation of all designated BMPs and other measures." Permit Attachment C, Definitions, defines "Wet Season" as "October 1 through April 30 of each year." The terms "Wet Season" and "Rainy Season" are used interchangeably throughout the Permit. On December 12, 2007, the Regional Board extended the review and update deadline by 60 days in Addendum No. 1 to R9-2007-0001. See Footnote 3.

On March 12, 2008, the County amended its Storm Water Ordinance (March 12, 2008, Ordinance, See **Exhibit 5** at section 1) [Ordinance No. 9926 (New Series), An Ordinance Amending Title 6, Division 7, Chapter 8 and Section 87.205 Through 87.20-8, 87.218 and 87.414 of the San Diego Code of Regulatory Ordinances Relating to Watershed Protection, Stormwater Management and Discharge Control and Grading] with the stated purpose to "conform with the requirements of California Regional Water Quality Control Board, San Diego Region Order No. R9-2007-0001, NPDES No. CAS0108758." One of the amendments that the County made to its Ordinance was to change the definition of "Rainy Season" from "October 1 through April 30" to "November 11 through April 30." Although the Regional Board's "Wet Season" definition existed informally under Order No. 90-42, it was formally included in Order No. R9-2001-0001 (adopted February 21, 2001) and in the Permit. Furthermore, the County had the correct definition in its Storm Water Ordinance from its initial adoption on August 5, 2003 (August 5, 2003, Ordinance, See

Exhibit 6), until the March 12, 2008, amendment.

On August 5, 2009, the County after receiving a Regional Board NOV and at the urging of Regional Board staff corrected the definition by amending its storm water ordinance to conform to the Permit (August 5, 2009, Ordinance, See **Exhibit 7**).

The County's modification of the Wet Season definition fundamentally alters the approach to preventing and reducing storm water pollution. The Permit and the County's guidance materials (e.g., DLI) all recognize that there is a greater threat to water quality during the Wet Season than during the Dry Season and, therefore, a need for more stringent requirements during the Wet Season (e.g., minimization of grading, stabilization of inactive slopes, and increased number of required construction inspections.). By unilaterally eliminating 40 days off the 211-day Wet Season (or 19%), the County is failing to prevent and reduce storm water pollution during the time of greatest threat to water quality. The County's definition is not only contrary to the Permit, but also contrary to the California State Water Resources Control Board's statewide NPDES Construction Storm Water Permit (Order No. 99-08-DWQ).

The gravity of the violation is serious. The failure to have a consistent "Wet Season" definition has a tremendous impact on how the County implements its storm water program as stated above. It is not merely a "process" violation, as suggested by the County, because the failure to implement the more rigorous and protective "Wet Season" program for the first 40 days of the Wet Season can be catastrophic to the beneficial uses of the receiving waters. The first storm events of the Wet Season often contain the greatest amount of pollutants (i.e., greater toxicity). The long dry period from May to October in Southern California allows contaminants to build up. The first large rainfall of the Wet Season generally mobilizes the built-up contaminants, creating a larger discharge of pollutants. This phenomenon is called "first flush." At construction sites, these pollutants would include sediment and common building materials and waste, such as concrete, metals, asphalt, trash, and others. Therefore, by failing to prevent and reduce the storm water pollution during the first part of the Wet Season, the County may be allowing the largest concentration of pollutants to be discharged with little or no treatment.

The County's MS4 discharges into the following Hydrologic Units as described in the Regional Board's Basin Plan:

- Santa Margarita (902.00);
- San Luis Rey (903.00);
- Carlsbad (904.00);
- San Dieguito (905.00);
- Peñasquitos (906.00);
- San Diego (907.00);
- Pueblo San Diego (908.00);
- Sweetwater (909.00);
- Otay (910.00); and
- Tijuana (911.00).

These Hydrologic Units have the following designated beneficial uses as described in the Regional Board's Basin Plan:

- Aquaculture (AQUA);
- Agricultural Supply (AGR);
- Cold Freshwater Habitat (COLD);
- Commercial and Sport Fishing (COMM);
- Contact Water Recreation (REC-1);
- Estuarine Habitat (EST);
- Freshwater Replenishment (FRSH);
- Ground Water Recharge (GWR);
- Hydropower Generation (POW);
- Industrial Process Supply (PROC);
- Industrial Service Supply (IND);
- Inland Saline Water Habitat (SAL);
- Marine Habitat (MAR);
- Migration of Aquatic Organisms (MIGR);
- Municipal and Domestic Supply (MUN);
- Navigation (NAV);
- Non-contact Water Recreation (REC-2);
- Preservation of Biological Habitats of Special Significance (BIOL);
- Rare, Threatened, or Endangered Species (RARE);
- Shellfish Harvesting (SHELL);
- Spawning, Reproduction, and/or Early Development (SPWN);
- Warm Freshwater Habitat (WARM); and
- Wildlife Habitat (WILD).

3.1.2. Discharge's Susceptibility to Cleanup and Abatement, and Degree of Toxicity

The alleged violation is not subject to cleanup. The potential degree of toxicity in storm water discharges affected by the violation is high based on the nature of materials at construction sites as described above in Section 3.1.1.

3.1.3. Discharger's Ability to Pay and Ability to Continue Its Business
According to the Comprehensive Annual Financial Report of the County for the fiscal year 2007/08 dated December 10, 2008, the County's net assets exceed its liabilities as summarized below.

> *Net assets* may serve over time as a useful indicator of a government's financial position. In the case of the County, assets exceeded liabilities by $3.22 billion at the close of fiscal year 2008, an increase of $273 million or 9% over fiscal year 2007. This included an increase of $200 million in the County's restricted and unrestricted net assets (a 47% increase over fiscal year 2007) and an increase of $73 million in capital assets, net of related debt (a 3% increase over fiscal year 2007).

The County can pay the recommended civil liability for the alleged violations and continue to operate.

3.1.4. Degree of Culpability and Voluntary Cleanup Efforts
The County exhibits a high degree of culpability relative to this alleged violation. The County intentionally changed its ordinance from the correct "Wet Season" definition to a definition that suited its interests in direct disregard of the Permit. It was not until the Regional Board issued an enforcement action to the County notifying it of the violation that the County finally agreed to rectify the matter.

The County in its NOV response stated that it had an understanding with Regional Board staff that there would be no enforcement actions stemming from the County's differing definition and practices. To support this claim the County cited a section of the 2002/03 and 2003/04 Annual Reports where it noted the County's requirement that developers have vegetated slopes stabilized by November 11th. While an obscure statement of a deviation of a requirement from a comprehensive storm water permit in a four-inch thick annual report from 2003 and 2004 may have given the Regional Board notice of the County's desire to use a different Wet Season start date, it clearly was not a direct communication of the County's desire to change the definition of the Wet Season and request and obtain immunity from prosecution.

Had the County wanted to redefine the Wet Season either solely for itself or for all of the Copermittees, the appropriate action would have been to request it in the Report of Waste Discharge (i.e., Permit application period)

or during the comment period for the draft permit. The Regional Board record is silent to this matter. The County may have raised this matter during initial Copermittee meetings regarding the reissuance of the permit; however, the Regional Board never approved the change orally or in writing, and both the Permit as well as the previous permit specifically define the Wet Season as beginning on October 1st. Therefore, it was unreasonable for the County to believe that the Regional Board would not pursue an enforcement action against it for amending its Ordinance contrary to the Permit's Wet Season definition.

3.1.5. Prior History of Violations

During the last nine years, the Regional Board has issued the County seven Notice of Violations (NOVs), seven Notices to Comply (NTCs), and one Staff Enforcement Letter (SEL) for alleged violations of its storm water permits. The Regional Board in its seven NOVs cited the County four times for failing to implement BMPs; twice for failing to prohibit illicit discharges, once for failing to require BMPs; once for failing to enforce its storm water ordinance; and once for failing to report required information. None of the previous violations addressed the County's use of a different Wet Season.

3.1.6. Economic Benefit or Savings

Pursuant to the State Board's *Water Quality Enforcement Policy*, liability assessments should at a minimum take away whatever economic savings a discharger gains as a result of those violations. Furthermore, Water Code section 13385 (e) requires that "at a minimum, liability shall be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation." Regional Board staff was unable to determine if the County enjoyed an economic benefit by amending its storm water ordinance to shorten the Wet Season. The economic benefit for the related allegations that stem from this violation is summarized in Section 3.3.6.

3.1.7. Other Matters That Justice May Require

Over the course of trying to resolve this matter with the County, the Regional Board invested 68.5 hours to investigate, prepare enforcement documents, and consider this action. The total investment of the Regional Board to date is $10,374. See **Exhibit 8**, Staff Time Log and Costs.

3.2. ALLEGATION 2: County Failed to Require Construction Site BMPs During the Wet Season

The County violated Permit Provision D.2.c.(3) by failing to require "slope stabilization on all inactive slopes during the Rainy Season" from October 1,

2007, to November 10, 2007, and from October 1, 2008, to November 10, 2008. The County Department of Public Works Director's Letter of Instruction (DLI) states that "[d]uring the Non-Rainy Season from May 1 through November 10, the Developer may opt to employ 'weathered triggered' action plans[7] in lieu of fully deployed BMPs." As a result, the County allowed Developers to leave inactive slopes unprotected from October 1 to November 10 in 2007 and 2008, if the Developer implemented a "weather triggered" action plan. Therefore, the days of violation are 80 (October 1 to November 10, 2007, and October 1 to November 10, 2008).

3.2.1. Nature, Circumstances, Extent, and Gravity of the Violation

Storm water pollution regulatory programs differentiate between the Wet and Dry Seasons by increasing the Pollution Prevention and Pollution Reduction requirements during the Wet Season in recognition of the increased threat posed by precipitation events during the Wet Season to cause storm water pollution. This logical, fair and reasonable regulatory design weighs the developer's desire to construct without impediments versus the State's mission to prevent and reduce storm water pollution. Therefore, the Regional Board gives the County the flexibility to require lesser standards during the Dry Season, but require greater regulatory measures during the Wet Season (e.g., increased inspections, slope stabilization on inactive slopes, and minimization of grading) when there is a greater threat.

The County frustrated the intent of the Permit by unilaterally reducing the first 40 days of the Wet Season. The County allowed developers to leave their sites exposed during the first 40 days of the Wet Season during 2007 and 2008. While developers were given the option to use "weather triggered" action plans, these plans are not as protective against storm water pollution. A "weather triggered" action plan allows the developer to store on site 125% of the necessary BMP materials that are to be deployed within 48 hours of a 50% chance or greater rain event of 0.5 inches or more instead of requiring that all surfaces but those actively being graded be protected from erosion and sedimentation. Therefore, some sites although well staged with BMP materials, may not have BMPs deployed to prevent storm water pollution from occurring during a storm event.

There were at least three storm events during the disputed periods over the two years during which the County failed to require developers to

[7] A "weather triggered" action plan allows the developer to store on site 125% of the necessary BMP materials that are to be deployed within 48 hours of a 50% chance or greater rain event of 0.5 inches or more.

adequately protect with BMPS against storm water pollution. During the 2007 Wet Season, San Diego County experienced its first storm event on October 13th with rainfall of 0.21 inches. A second storm event occurred on October 17th with rainfall of 0.13 inches. There were no other storm events during the disputed period of October 1st through November 10th of 2007. During the 2008 Wet Season one storm event during the disputed period occurred on November 4th with rainfall of 0.14 inches[8].

3.2.2. Discharge's Susceptibility to Cleanup and Abatement, and Degree of Toxicity

The alleged violation is not subject to cleanup; and the County cannot retroactively require that construction sites implement BMPs that would have protected the sites during storm events that occurred from October 1 through November 10 of 2007 and 2008. The potential degree of toxicity in storm water discharges affected by the violation is high based on the nature of materials at construction sites.

3.2.3. Discharger's Ability to Pay and Ability to Continue Its Business

See Section 3.1.3 above.

3.2.4. Degree of Culpability and Voluntary Cleanup Efforts

The County again exhibits a high degree of culpability because it did not require developers to implement BMPs as required by the Permit during the contested period.

3.2.5. Prior History of Violations

See Section 3.1.5 above.

3.2.6. Economic Benefit or Savings

Pursuant to the State Board's *Water Quality Enforcement Policy*, liability assessments should at a minimum take away whatever economic savings a discharger gains as a result of those violations. Furthermore, Water Code section 13385 (e) requires that "at a minimum, liability shall be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation." Regional Board staff were unable to determine what if any economic savings the County enjoyed by not requiring developers to implement BMPs. The economic benefit for the related allegation that stem from this violation is summarized in

[8] Storm event data was obtained from the Weather Underground (www.wunderground.com), a commercial weather service that provides real-time weather information via the Internet. Weather Underground provides weather reports for most major cities across the world on its website, as well as local weather reports for newspapers and websites (e.g., Associated Press, the San Francisco Chronicle, and Google.). Most of its United States information comes from the National Weather Service.

Section 3.3.6.

3.2.7. Other Matters That Justice May Require
See Section 3.1.7. above.

3.3. ALLEGATION 3: County Failed to Inspect Construction Sites During the Wet Season
The County violated Permit Provision D.2.d.(1-3) by failing to inspect construction sites during the Wet Season from October 1, 2007, to November 10, 2007, and from October 1, 2008, to November 10, 2008, because the County's inspection frequencies were based upon the County's Wet Season and therefore didn't begin until November 11[9]. Therefore, the days of violation are 80 (October 1 to November 10, 2007, and October 1 to November 10, 2008).

3.3.1. Nature, Circumstances, Extent, and Gravity of the Violation
The County failed to inspect construction sites during the contested Wet Season period. At the very least, if inspections occurred during the contested period, the County inspectors applied a lesser review standard based on the DLI (i.e., a construction site may have been credited with having adequate BMPs when there were inadequate BMPs). The County reported in its January 30, 2009, response to NOV No. R9-2008-0164 that in 2007 it failed to inspect six High Priority sites and 111 Medium Priority sites. In 2008 the County reported that it failed to inspect four High Priority sites; and three Medium Priority sites. See **Exhibit 10**, January 30, 2009, County Report without attachments, Tables 1 and 2 at page 7. The County as part of its storm water program prioritizes construction sites as "High," "Medium" or "Low" based upon a construction site's BMP maintenance requirements and a site's storm water pollution potential to receiving waters. See **Exhibit 11**, Section 4.4.4.4.2 "Treatment Control BMP Prioritization" at Page 20 of the County of San Diego's Jurisdictional Urban Runoff Management Program submitted March 24, 2008.

Failure to inspect construction sites at the beginning of the Wet Season can lead to large discharges of storm water pollutants in terms of quantity and toxicity because the sites will not be protected by BMPs that would have caught the Wet Season's "first flush" of pollutants that accumulated during the Dry Season as previously discussed. Inspections just prior to the Wet Season or during its first weeks are important because it allows regulatory agencies like the County and the Regional Board to ensure that

[9] On September 30, 2008, the County informed the Regional Board in its Jurisdictional Urban Runoff Management Plan, Annual Report Fiscal Year 2007-2008 (Report) that it began complying with Order No. R9-2007-0001's construction site inspection requirements on July 1, 2007. (See Exhibit 9, Report at page 3-16.)

adequate BMPs are installed before the first storm event hits a site. During the Wet Season storm water regulatory agencies shift their emphasis from prevention of illegal/illicit dischargers to the storm water conveyance system to erosion prevention. Construction inspections just prior to the Wet Season or during the Wet Season, but prior to the first storm event, ensure and encourage that Developers implement the necessary BMPs to protect receiving waters.

3.3.2. Discharge's Susceptibility to Cleanup and Abatement, and Degree of Toxicity

The alleged violation is not subject to cleanup; and the County cannot retroactively conduct the inspections to ensure that adequate BMPs were in place to prevent pollution of the receiving waters. Again, the inspections would have ensured that BMPs were in place to prevent the "first flush" of pollutants from entering the receiving waters.

3.3.3. Discharger's Ability to Pay and Ability to Continue Its Business

See Section 3.1.3 above.

3.3.4. Degree of Culpability and Voluntary Cleanup Efforts

The County again exhibits a high degree of culpability because it intentionally did not conduct some of the required inspections during the first 40 days of the 2007 and 2008 Wet Seasons and, therefore, was unable to ensure that adequate BMPs were in place to prevent polluted discharges of storm water from entering receiving waters.

3.3.5. Prior History of Violations

See Section 3.1.5 above.

3.3.6. Economic Benefit or Savings

Pursuant to the State Board's *Water Quality Enforcement Policy*, liability assessments should at a minimum take away whatever economic savings a discharger gains as a result of those violations. Furthermore, Water Code section 13385 (e) requires that "at a minimum, liability shall be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation."

Based upon the County's reported number of missed inspections and its average inspection cost, the County enjoyed an economic benefit of $17,510 during 2007 and $2,261 during 2008; for a total of $19,771. The figures were calculated using the U.S. EPA's BEN model. See **Exhibit 12**, BEN Calculation Summary. The Regional Board used the following figures and assumptions:

2007 Construction Inspection Costs Avoided: $14,334[10]
2008 Construction Inspection Costs Avoided: $1,820
2007 Compound Rate: 4.7%
2008 Compound Rate: 4.9%
Estimated Compliance Date: March 12, 2010.

3.3.7. Other Matters That Justice May Require
See Section 3.1.7. above.

4. **Maximum Civil Liability Amount**
Pursuant to Water Code section 13385 the maximum civil liability that the Regional Board may assess is (a) ten thousand dollars ($10,000) per day of violation (per violation); and (b) ten dollars ($10) for every gallon discharged, over one thousand gallons discharged, that was not cleaned up. Section 13385(e) requires that, when pursuing civil liability under Water Code section 13385, "At a minimum, liability shall be assessed at a level that recovers the economic benefit, if any, derived from the acts that constitute the violation."

4.1. Failure to Provide Adequate Authority to Achieve Full Permit Compliance
The County violated Permit Provision D.2.a.(1) on March 12, 2008, when it amended its storm water ordinance by changing the definition of "Rainy Season" from "October 1 through April 30" to "November 11 through April 30" contrary to the Permit's definition of "October 1 through April 30 of each year." On August 5, 2009, the County corrected the definition to comply with the Permit. Therefore, the days of violation are 498 (March 24, 2008, to August 4, 2009). Therefore, the maximum liability that the Regional Board may assess is $4.98 million.

4.2. Failure to Require Construction Site BMPs During the Wet Season
The County violated Permit Provision D.2.c.(3) by failing to require "slope stabilization on all inactive slopes during the Rainy Season" from October 1, 2007, to November 10, 2007, and from October 1, 2008, to November 10, 2008. The County Department of Public Works Director's Letter of Instruction (DLI) states that "[d]uring the Non-Rainy Season from May 1 through November 10, the Developer may opt to employ 'weathered triggered' action plans in lieu of fully deployed BMPs." As a result, the County allowed Developers to leave inactive slopes unprotected from October 1 to November 10 in 2007 and 2008, if the Developer implemented a "weather triggered" action plan. Therefore, the days of violation are 80 (October 1 to November 10, 2007, and October 1 to

[10] See **Exhibit 13**, Calculation of avoided construction inspection costs. Note the benefit accrues until liability payment is received.

November 10, 2008). Therefore, the maximum liability that the Regional Board may assess is $800,000.

4.3. Failure to Inspect Construction Sites During the Wet Season
The County violated Permit Provision D.2.d.(1-3) by failing to inspect construction sites during the Wet Season from October 1, 2007, to November 10, 2007, and from October 1, 2008, to November 10, 2008, because the County's inspection frequencies were based upon the County's Wet Season and therefore didn't begin until November 11. Therefore, the days of violation are 80 (October 1 to November 10, 2007, and October 1 to November 10, 2008). Therefore, the maximum liability that the Regional Board may assess is $800,000.

The total maximum liability that could be imposed by the Regional Board for these violations is $6.58 million.

5. Proposed Civil Liability Per Violation
The proposed amount of civil liability attributed to each violation was determined by taking into consideration the factors listed in Water Code Section 13385, as well as the maximum civil liability that the Regional Board may assess.

5.1. Failure to Provide Adequate Authority to Achieve Full Permit Compliance
The proposed liability is $100 per day for 498 days of violation resulting in a liability of $49,800.

5.2. Failure to Require Construction Site BMPs During the Wet Season
The proposed liability is $100 for 80 days of violation resulting in a liability of $8,000.

5.3. Failure to Inspect Construction Sites During the Wet Season
The proposed liability is $250 for 80 days of violation resulting in a liability of $20,000.

6. Total Proposed Administrative Civil Liability
The total proposed civil liability in this matter is $77,800.

Exhibit List
Technical Analysis
for
ACL Complaint R9-2009-0089

1. Permit Order No. R9-2007-0001, *NPDES No. CAS0108758, Waste Discharge Requirements for Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of San Diego, the Incorporated Cities of San Diego County, the San Diego Unified Port District, and the San Diego County Regional Airport Authority*

2. Administrative Civil Liability Complaint Order No. R9-2009-0089

3. Addendum No. 1 to Order No. R9-2007-0001

4. County Department of Public Works Director's Letter of Instruction

5. March 12, 2008, County Ordinance

6. August 5, 2003, County Ordinance

7. August 5, 2009, County Ordinance

8. Regional Board Staff Time Log

9. County Jurisdictional Urban Runoff Management Plan, Annual Report Fiscal Year 2007-2008 dated September 30, 2008

10. January 30, 2009, County Report without attachments

11. Section 4.4.4.4.2 "Treatment Control BMP Prioritization" of the County's Jurisdictional Urban Runoff Management Program submitted March 24, 2008

12. BEN Calculation Summary

13. Calculation of avoided construction inspection costs

Exhibit 1

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION
ORDER NO. R9-2007-0001
NPDES NO. CAS0108758
WASTE DISCHARGE REQUIREMENTS
FOR DISCHARGES OF URBAN RUNOFF FROM
THE MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4s)
DRAINING THE WATERSHEDS OF THE COUNTY OF SAN DIEGO,
THE INCORPORATED CITIES OF SAN DIEGO COUNTY,
THE SAN DIEGO UNIFIED PORT DISTRICT,
AND THE SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY

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

A. BASIS FOR THE ORDER

1. This Order is based on the federal Clean Water Act (CWA), the Porter-Cologne Water Quality Control Act (Division 7 of the Water Code, commencing with Section 13000), applicable state and federal regulations, all applicable provisions of statewide Water Quality Control Plans and Policies adopted by the State Water Resources Control Board (SWRCB), the Water Quality Control Plan for the San Diego Basin adopted by the Regional Board, the California Toxics Rule, and the California Toxics Rule Implementation Plan.

2. This Order renews National Pollutant Discharge Elimination System (NPDES) Permit No. CAS0108758, which was first issued on July 16, 1990 (Order No. 90-42), and then renewed on February 21, 2001 (Order No. 2001-01). On August 25, 2005, in accordance with Order No. 2001-01, the County of San Diego, as the Principal Permittee, submitted a Report of Waste Discharge (ROWD) for renewal of their MS4 Permit.

B. REGULATED PARTIES

1. Each of the persons in Table 1 below, hereinafter called Copermittees or dischargers, owns or operates a municipal separate storm sewer system (MS4), through which it discharges urban runoff into waters of the United States 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 United States.

Table 1. Municipal Copermittees

1.	City of Carlsbad	12.	City of Oceanside
2.	City of Chula Vista	13.	City of Poway
3.	City of Coronado	14.	City of San Diego
4.	City of Del Mar	15.	City of San Marcos
5.	City of El Cajon	16.	City of Santee
6.	City of Encinitas	17.	City of Solana Beach
7.	City of Escondido	18.	City of Vista
8.	City of Imperial Beach	19.	County of San Diego
9.	City of La Mesa	20.	San Diego Unified Port District
10.	City of Lemon Grove	21.	San Diego County Regional Airport Authority
11.	City of National City		

C. DISCHARGE CHARACTERISTICS

1. Urban runoff contains waste, as defined in the California Water Code (CWC), and pollutants that adversely affect the quality of the waters of the State. The discharge of urban runoff from an MS4 is a "discharge of pollutants from a point source" into waters of the U.S. as defined in the CWA.

2. The most common categories of pollutants in urban runoff include total suspended solids, sediment (due to anthropogenic activities); pathogens (e.g., bacteria, viruses, protozoa);

heavy metals (e.g., copper, lead, zinc and cadmium); petroleum products and polynuclear aromatic hydrocarbons; synthetic organics (e.g., pesticides, herbicides, and PCBs); nutrients (e.g., nitrogen and phosphorus fertilizers), oxygen-demanding substances (decaying vegetation, animal waste), and trash.

3. 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 (i.e., unreasonable impairment of water quality for designated beneficial uses), contamination, or nuisance.

4. Pollutants in urban runoff can threaten human health. Human illnesses have been clearly linked to recreating near storm drains flowing to coastal waters. Also, urban runoff pollutants in receiving waters can bioaccumulate in the tissues of invertebrates and fish, which may be eventually consumed by humans.

5. Urban runoff discharges from MS4s often contain pollutants that cause toxicity to aquatic organisms (i.e., adverse responses of organisms to chemicals or physical agents ranging from mortality to physiological responses such as impaired reproduction or growth anomalies). Toxic pollutants impact the overall quality of aquatic systems and beneficial uses of receiving waters.

6. The Copermittees discharge urban runoff into lakes, drinking water reservoirs, rivers, streams, creeks, bays, estuaries, coastal lagoons, the Pacific Ocean, and tributaries thereto within ten of the eleven hydrologic units (watersheds) comprising the San Diego Region as shown in Table 2 below. Some of the receiving water bodies have been designated as impaired by the Regional Board and the United States Environmental Protection Agency (USEPA) in 2002 pursuant to CWA section 303(d). Also shown below are the watershed management areas (WMAs) as defined in the Regional Board report, Watershed Management Approach, January 2002.

Table 2. Common Watersheds and CWA Section 303(d) Impaired Waters

REGIONAL BOARD WATERSHED MANAGEMENT AREA (WMA)	HYDROLOGIC UNIT(S)	MAJOR SURFACE WATER BODIES	303(d) POLLUTANT(S) OF CONCERN OR WATER QUALITY EFFECT[1]	COPERMITTEES
Santa Margarita River	Santa Margarita (902.00)	Santa Margarita River and Estuary, Pacific Ocean	1. Eutrophic 2. Nitrogen 3. Phosphorus 4. Total Dissolved Solids	1. County of San Diego
San Luis Rey River	San Luis Rey (903.00)	San Luis Rey River and Estuary, Pacific Ocean	1. Bacterial Indicators 2. Eutrophic 3. Chloride 4. Total Dissolved Solids	1. City of Escondido 2. City of Oceanside 3. City of Vista 4. County of San Diego
Carlsbad	Carlsbad (904.00)	Batiquitos Lagoon San Elijo Lagoon Agua Hedionda Lagoon Buena Vista Lagoon And Tributary Streams Pacific Ocean	1. Bacterial Indicators 2. Eutrophic 3. Sedimentation/Siltation 4. Nutrients 5. Total Dissolved Solids	1. City of Carlsbad 2. City of Encinitas 3. City of Escondido 4. City of Oceanside 5. City of San Marcos 6. City of Solana Beach 7. City of Vista 8. County of San Diego

[1] The listed 303(d) pollutant(s) of concern do not necessarily reflect impairment of the entire corresponding WMA or all corresponding major surface water bodies. The specific impaired portions of each WMA are listed in the State Water Resources Control Board's 2002 Section 303(d) List of Water Quality Limited Segments.

REGIONAL BOARD WATERSHED MANAGEMENT AREA (WMA)	HYDROLOGIC UNIT(S)	MAJOR SURFACE WATER BODIES	303(d) POLLUTANT(S) OF CONCERN OR WATER QUALITY EFFECT[1]	COPERMITTEES
San Dieguito River	San Dieguito (905.00)	San Dieguito River and Estuary, Pacific Ocean	1. Bacterial Indicators 2. Sulfate 3. Color 4. Nitrogen 5. Phosphorus 6. Total Dissolved Solids	1. City of Del Mar 2. City of Escondido 3. City of Poway 4. City of San Diego 5. City of Solana Beach 6. County of San Diego
Mission Bay	Peñasquitos (906.00)	Los Peñasquitos Lagoon Mission Bay, Pacific Ocean	1. Bacterial Indicators 2. Metals 3. Eutrophic 4. Sedimentation/Siltation 5. Toxicity	1. City of Del Mar 2. City of Poway 3. City of San Diego 4. County of San Diego
San Diego River	San Diego (907.00)	San Diego River, Pacific Ocean	1. Bacterial Indicators 2. Eutrophic 3. pH 4. Total Dissolved Solids 5. Oxygen (Dissolved)	1. City of El Cajon 2. City of La Mesa 3. City of Poway 4. City of San Diego 5. City of Santee 6. County of San Diego
San Diego Bay	Pueblo San Diego (908.00) Sweetwater (909.00) Otay (910.00)	San Diego Bay Sweetwater River Otay River Pacific Ocean	1. Bacterial Indicators 2. Metals 3. Sediment Toxicity 4. Benthic Community Degradation 5. Diazinon 6. Chlordane 7. Lindane 8. PAHs 9. PCBs	1. City of Chula Vista 2. City of Coronado 3. City of Imperial Beach 4. City of La Mesa 5. City of Lemon Grove 6. City of National City 7. City of San Diego 8. County of San Diego 9. San Diego Unified Port District 10.San Diego County Regional Airport Authority
Tijuana River	Tijuana (911.00)	Tijuana River and Estuary Pacific Ocean	1. Bacterial Indicators 2. Low Dissolved Oxygen 3. Metals 4. Eutrophic 5. Pesticides 6. Synthetic Organics 7. Trace Elements 8. Trash 9. Solids	1. City of Imperial Beach 2. City of San Diego 3. County of San Diego

7. The Copermittees' water quality monitoring data submitted to date documents persistent exceedances of Basin Plan water quality objectives for various urban runoff-related pollutants (diazinon, fecal coliform bacteria, total suspended solids, turbidity, metals, etc.) at various watershed monitoring stations. At some monitoring stations, such as Agua Hedionda, statistically significant upward trends in pollutant concentrations have been observed. Persistent toxicity has also been observed at some watershed monitoring stations. In addition, bioassessment data indicates that the majority of watersheds have Poor to Very Poor Index of Biotic Integrity ratings. In sum, the above findings indicate that urban runoff discharges are causing or contributing to water quality impairments, and are a leading cause of such impairments in San Diego County.

8. When natural vegetated pervious ground cover is converted 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 urban area is significantly greater in runoff volume, velocity, and peak flow rate than pre-development runoff from the same area. Runoff durations can also increase as a result of flood control and other efforts to control peak flow rates. Increased volume, velocity, rate, and duration of runoff greatly accelerate the erosion of downstream natural channels. Significant declines in the biological integrity and physical habitat of streams and other receiving waters have been found to occur

with as little as a 10% conversion from natural to impervious surfaces. The increased runoff characteristics from new development must be controlled to protect against increased erosion of channel beds and banks, sediment pollutant generation, or other impacts to beneficial uses and stream habitat due to increased erosive force.

9. Urban development creates new pollution sources as human population density increases and brings with it proportionately higher levels of car emissions, car maintenance wastes, municipal sewage, pesticides, household hazardous wastes, pet wastes, trash, etc. which can either be washed or directly dumped into the MS4. As a result, the runoff leaving the developed urban area is significantly greater in pollutant load than the pre-development runoff from the same area. These increased pollutant loads must be controlled to protect downstream receiving water quality.

10. Development and urbanization especially threaten environmentally sensitive areas (ESAs), such as water bodies designated as supporting a RARE beneficial use (supporting rare, threatened or endangered species) and CWA 303(d) impaired water bodies. Such areas have a much lower capacity to withstand pollutant shocks than might be acceptable in the general circumstance. In essence, development that is ordinarily insignificant in its impact on the environment may become significant in a particular sensitive environment. Therefore, additional control to reduce pollutants from new and existing development may be necessary for areas adjacent to or discharging directly to an ESA.

11. Although dependent on several factors, the risks typically associated with properly managed infiltration of runoff (especially from residential land use areas) are not significant. The risks associated with infiltration can be managed by many techniques, including (1) designing landscape drainage features that promote infiltration of runoff, but do not "inject" runoff (injection bypasses the natural processes of filtering and transformation that occur in the soil); (2) taking reasonable steps to prevent the illegal disposal of wastes; (3) protecting footings and foundations; and (4) ensuring that each drainage feature is adequately maintained in perpetuity.

D. URBAN RUNOFF MANAGEMENT PROGRAMS

1. General

a. This Order specifies requirements necessary for the Copermittees to reduce the discharge of pollutants in urban runoff to the maximum extent practicable (MEP). However, since MEP is a dynamic performance standard which evolves over time as urban runoff management knowledge increases, the Copermittees' urban runoff management programs must continually be assessed and modified to incorporate improved programs, control measures, best management practices (BMPs), etc. in order to achieve the evolving MEP standard. Absent evidence to the contrary, this continual assessment, revision, and improvement of urban runoff management program implementation is expected to ultimately achieve compliance with water quality standards.

b. Although the Copermittees have generally been implementing the jurisdictional urban runoff management programs required pursuant to Order No. 2001-01 since February 21, 2002, urban runoff discharges continue to cause or contribute to violations of water quality standards. This Order contains new or modified requirements that are necessary to improve Copermittees' efforts to reduce the discharge of pollutants in urban runoff to the MEP and achieve water quality

standards. Some of the new or modified requirements, such as the expanded Watershed Urban Runoff Management Program section, are designed to specifically address these high priority water quality problems. Other new or modified requirements address program deficiencies that have been noted during audits, report reviews, and other Regional Board compliance assessment activities.

c. Updated Jurisdictional Urban Runoff Management Plans (JURMPs) and Watershed Urban Runoff Management Plans (WURMPs), and a new Regional Urban Runoff Management Plan (RURMP), which describe the Copermittees' urban runoff management programs in their entirety, are needed to guide the Copermittees' urban runoff management efforts and aid the Copermittees in tracking urban runoff management program implementation. It is practicable for the Copermittees to update the JURMPs and WURMPs, and create the RURMP, within one year, since significant efforts to develop these programs have already occurred.

d. Pollutants can be effectively reduced in urban 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 flows (e.g., rerouting run-on around pollutant sources or keeping pollutants on-site and out of receiving waters). Treatment control BMPs remove pollutants from urban runoff.

e. Urban runoff needs to be addressed during the three major phases of development (planning, construction, and use) in order to reduce the discharge of pollutants to the MEP and protect receiving waters. Development which is not guided by water quality planning policies and principles can unnecessarily result in increased pollutant load discharges, flow rates, and flow durations which can impact 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 generates substantial pollutant loads which are discharged in urban runoff to receiving waters.

f. Annual reporting requirements included in this Order are necessary to meet federal requirements and to evaluate the effectiveness and compliance of the Copermittees' programs.

2. Development Planning

a. The Standard Urban Storm Water Mitigation Plan (SUSMP) requirements contained in this Order are consistent with Order WQ-2000-11 adopted by the SWRCB on October 5, 2000. In the precedential order, the SWRCB found that the design standards, which essentially require that urban runoff generated by 85 percent of storm events from specific development categories be infiltrated or treated, reflect the MEP standard. The order also found that the SUSMP requirements are appropriately applied to the majority of the Priority Development Project categories contained in Section D.1 of this Order. The SWRCB also gave Regional Water Quality Control Boards the discretion to include additional categories and locations, such as retail gasoline outlets (RGOs), in future SUSMPs.

b. Controlling urban runoff pollution by using a combination of onsite source control and Low Impact Development (LID) BMPs augmented with treatment control BMPs before the runoff enters the MS4 is important for the following reasons: (1) Many end-of-pipe BMPs (such as diversion to the sanitary sewer) are typically ineffective during significant storm events. Whereas, onsite source control BMPs can be applied during all runoff conditions; (2) End-of-pipe BMPs are often incapable of capturing and treating the wide range of pollutants which can be generated on a sub-watershed scale; (3) End-of-pipe BMPs are more effective when used as polishing BMPs, rather than the sole BMP to be implemented; (4) End-of-pipe BMPs do not protect the quality or beneficial uses of receiving waters between the source and the BMP; and (5) Offsite end-of-pipe BMPs do not aid in the effort to educate the public regarding sources of pollution and their prevention.

c. Use of LID BMPs at new development projects can be an effective means for minimizing the impact of urban runoff discharges from the development projects on receiving waters. LID BMPs help preserve and restore the natural hydrologic cycle of the site, allowing for filtration and infiltration which can greatly reduce the volume, peak flow rate, velocity, and pollutant loads of urban runoff.

d. Retail Gasoline Outlets (RGOs) are significant sources of pollutants in urban runoff. RGOs are points of convergence for motor vehicles for automotive related services such as repair, refueling, tire inflation, and radiator fill-up and consequently produce significantly higher loadings of hydrocarbons and trace metals (including copper and zinc) than other urban areas. To meet MEP, LID, source control, and treatment control BMPs are needed at RGOs that meet the following criteria: (a) 5,000 square feet or more, or (b) a projected Average Daily Traffic (ADT) of 100 or more vehicles per day. These are appropriate thresholds since vehicular development size and volume of traffic are good indicators of potential impacts of urban runoff from RGOs on receiving waters.

e. Sites of heavy industry are significant sources of pollutants in urban runoff. Pollutant concentrations and loads in runoff from industrial sites are similar or exceed pollutant concentrations and loads in runoff from other land uses, such as commercial or residential land uses. As with other land uses, LID, source control, and treatment control BMPs are needed at sites of heavy industry in order to meet the MEP standard. These BMPs are necessary where the site of heavy industry is larger than one acre. The one acre threshold is appropriate, since it is consistent with requirements in the Phase II NPDES storm water regulations.

f. If not properly designed or maintained, certain BMPs implemented or required by municipalities for urban runoff management may create a habitat for vectors (e.g. mosquitoes and rodents). However, proper BMP design and maintenance can prevent the creation of vector habitat. Nuisances and public health impacts resulting from vector breeding can be prevented with close collaboration and cooperative effort between municipalities and local vector control agencies and the State Department of Health Services during the development and implementation of urban runoff management programs.

3. Construction and Existing Development

a. In accordance with federal NPDES regulations and to ensure the most effective oversight of industrial and construction site discharges, discharges of runoff from

industrial and construction sites are subject to dual (state and local) storm water regulation. Under this dual system, the Regional Board is responsible for enforcing the General Construction Activities Storm Water Permit, SWRCB Order 99-08 DWQ, NPDES No. CAS000002 (General Construction Permit) and the General Industrial Activities Storm Water Permit, SWRCB Order 97-03 DWQ, NPDES No. CAS000001 (General Industrial Permit), and each municipal Copermittee is responsible for enforcing its local permits, plans, and ordinances, which may require the implementation of additional BMPs than required under the statewide general permits.

b. Identification of sources of pollutants in urban runoff (such as municipal areas and activities, industrial and commercial sites/sources, construction sites, and residential areas), development and implementation of BMPs to address those sources, and updating ordinances and approval processes are necessary for the Copermittees to ensure that discharges of pollutants into and from its MS4 are reduced to the MEP. Inspections and other compliance verification methods are needed to ensure minimum BMPs are implemented. Inspections are especially important at high risk areas for pollutant discharges.

c. Historic and current development makes use of natural drainage patterns and features as conveyances for urban runoff. Urban streams used in this manner are part of the municipalities MS4 regardless of whether they are natural, man-made, or partially modified features. In these cases, the urban stream is both an MS4 and a receiving water.

d. As operators of the MS4s, the Copermittees cannot passively receive and discharge pollutants from third parties. By providing free and open access to an MS4 that conveys discharges to waters of the U.S., the operator essentially accepts responsibility for discharges into the MS4 that it does not prohibit or control. These discharges may cause or contribute to a condition of contamination or a violation of water quality standards.

e. Waste and pollutants which are deposited and accumulate in MS4 drainage structures will be discharged from these structures to waters of the U.S. unless they are removed or treated. These discharges may cause or contribute to, or threaten to cause or contribute to, a condition of pollution in receiving waters. For this reason, pollutant discharges into MS4s must be reduced to the MEP unless treatment within the MS4 occurs.

f. Enforcement of local urban runoff related ordinances, permits, and plans is an essential component of every urban runoff management program and is specifically required in the federal storm water regulations and this Order. Each Copermittee is individually responsible for adoption and enforcement of ordinances and/or policies, implementation of identified control measures/BMPs needed to prevent or reduce pollutants in storm water runoff, and for the allocation of funds for the capital, operation and maintenance, administrative, and enforcement expenditures necessary to implement and enforce such control measures/BMPs under its jurisdiction.

g. Education is an important aspect of every effective urban runoff management program and the basis for changes in behavior at a societal level. Education of municipal planning, inspection, and maintenance department staffs is especially critical to ensure that in-house staffs understand how their activities impact water

quality, how to accomplish their jobs while protecting water quality, and their specific roles and responsibilities for compliance with this Order. Public education, designed to target various urban land users and other audiences, is also essential to inform the public of how individual actions impact receiving water quality and how these impacts can be minimized.

h. Public participation during the development of urban runoff management programs is necessary to ensure that all stakeholder interests and a variety of creative solutions are considered.

4. Watershed and Regional Urban Runoff Management

a. Since urban runoff does not recognize political boundaries, watershed-based urban runoff management can greatly enhance the protection of receiving waters within a watershed. Such management provides a means to focus on the most important water quality problems in each watershed. By focusing on the most important water quality problems, watershed efforts can maximize protection of beneficial use in an efficient manner. Effective watershed-based urban runoff management actively reduces pollutant discharges and abates pollutant sources causing or contributing to watershed water quality problems; watershed-based urban runoff management that does not actively reduce pollutant discharges and abate pollutant sources causing or contributing to watershed water quality problems can necessitate implementation of the iterative process outlined in section A.3 of the Order. Watershed management of urban runoff does not require Copermittees to expend resources outside of their jurisdictions. Watershed management requires the Copermittees within a watershed to develop a watershed-based management strategy, which can then be implemented on a jurisdictional basis.

b. Some urban runoff issues, such as residential education, can be effectively addressed on a regional basis. Regional approaches to urban runoff management can improve program consistency and promote sharing of resources, which can result in implementation of more efficient programs.

c. Both regionally and on a watershed basis, it is important for the Copermittees to coordinate their water quality protection and land use planning activities to achieve the greatest protection of receiving water bodies. Copermittee coordination with other watershed stakeholders, especially Caltrans, the Department of Defense, and Native American Tribes, is also important. Establishment of a management structure, within which the Copermittees subject to this Order will fund and coordinate those aspects of their joint obligations, will help promote implementation of urban runoff management programs on a watershed and regional basis in a most cost effective manner.

E. STATUTE AND REGULATORY CONSIDERATIONS

1. The Receiving Water Limitations (RWL) language specified in this Order is consistent with language recommended by the USEPA and established in SWRCB Water Quality Order 99-05, adopted by the SWRCB on June 17, 1999. The RWL in this Order require compliance with water quality standards, which is to be achieved through an iterative approach requiring the implementation of improved and better-tailored BMPs over time. Compliance with receiving water limits based on applicable water quality standards is necessary to ensure that MS4 discharges will not cause or contribute to violations of water quality standards and the

creation of conditions of pollution.

2. The Water Quality Control Plan for the San Diego Basin (Basin Plan), identifies the following beneficial uses for surface waters in San Diego County: 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 beneficial uses are identified for coastal waters of San Diego County: 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).

3. This Order is in conformance with SWRCB Resolution No. 68-16 and the federal Antidegradation Policy described in 40 CFR 131.12.

4. 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 NPDES permit addresses the management measures required for the urban category, with the exception of septic systems. The adoption and implementation of this NPDES permit relieves the Permittee from developing a non-point source plan, for the urban category, under CZARA. The Regional Board addresses septic systems through the administration of other programs.

5. Section 303(d)(1)(A) of the CWA requires that "Each state shall identify those waters within its boundaries for which the effluent limitations…are not stringent enough to implement any water quality standard (WQS) applicable to such waters." The CWA also requires states to establish a priority ranking of impaired waterbodies known as Water Quality Limited Segments and to establish Total Maximum Daily Loads (TMDLs) for such waters. This priority list of impaired waterbodies is called the Section 303(d) List. The current Section 303(d) List was approved by the SWRCB on February 4, 2003 and on July 25, 2003 by USEPA.

6. This Order fulfills a component of the TMDL Implementation Plan adopted by this Regional Board on August 14, 2002 for diazinon in Chollas Creek by establishing Water Quality Based Effluent Limits (WQBELs) for the Cities of San Diego, Lemon Grove, and La Mesa, the County of San Diego, and the San Diego Unified Port District; and by requiring: 1) legal authority, 2) implementation of a diazinon toxicity control plan and a diazinon public outreach/ education program, 3) achievement of the Compliance Schedule, and 4) a monitoring program. The establishment of WQBELs expressed as iterative BMPs to achieve the Waste Load Allocation (WLA) compliance schedule is appropriate and is expected to be sufficient to achieve the WLAs specified in the TMDL.

7. This Order fulfills a component of the TMDL Implementation Plan adopted by this Regional Board on February 9, 2005 for dissolved copper in Shelter Island Yacht Basin (SIYB) by establishing WQBELs expressed as BMPs to achieve the WLA of 30 kg copper / year for the City of San Diego and the San Diego Unified Port District. The establishment of WQBELs expressed as BMPs is appropriate and is expected to be sufficient to achieve the WLA

specified in the TMDL.

8. This Order establishes WQBELs and conditions consistent with the requirements and assumptions of the WLAs in the TMDLs as required by 40 CFR 122.44(d)(1)(vii)(B).

9. Requirements in this Order that are more explicit than the federal storm water regulations in 40 CFR 122.26 are prescribed in accordance with the CWA section 402(p)(3)(B)(iii) and are necessary to meet the MEP standard.

10. Urban runoff treatment and/or mitigation must occur prior to the discharge of urban runoff into a receiving water. Federal regulations at 40 CFR 131.10(a) state that 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 an urban 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. Furthermore, the 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. This is consistent with USEPA guidance to avoid locating structural controls in natural wetlands.

11. The issuance of waste discharge requirements and an NPDES permit for the discharge of urban 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 the CWC section 13389.

F. PUBLIC PROCESS

1. The Regional Board has notified the Copermittees, all known interested parties, and the public of its intent to consider adoption of an Order prescribing waste discharge requirements that would serve to renew an NPDES permit for the existing discharge of urban runoff.

2. The Regional Board has, at public meetings on (date), held public hearings and heard and considered all comments pertaining to the terms and conditions of this Order.

IT IS HEREBY ORDERED that the Copermittees, in order to meet the provisions contained in Division 7 of the California Water Code (CWC) and regulations adopted thereunder, and the provisions of the Clean Water Act (CWA) and regulations adopted thereunder, shall each comply with the following:

A. PROHIBITIONS AND RECEIVING WATER LIMITATIONS

1. Discharges into and from municipal separate storm sewer systems (MS4s) in a manner causing, or threatening to cause, a condition of pollution, contamination, or nuisance (as defined in CWC section 13050), in waters of the state are prohibited.

2. Discharges from MS4s containing pollutants which have not been reduced to the maximum extent practicable (MEP) are prohibited.[2]

[2] This prohibition does not apply to MS4 discharges which receive subsequent treatment to reduce pollutants to the MEP prior to entering receiving waters (e.g., low flow diversions to the sanitary sewer).

3. Discharges from MS4s that cause or contribute to the violation of water quality standards (designated beneficial uses and water quality objectives developed to protect beneficial uses) are prohibited.

   a. Each Copermittee shall comply with section A.3 and section A.4 as it applies to Prohibition 5 in Attachment A of this Order through timely implementation of control measures and other actions to reduce pollutants in urban runoff discharges in accordance with the Jurisdictional Urban Runoff Management Program and other requirements of this Order including any modifications. The Jurisdictional Urban Runoff Management Program shall be designed to achieve compliance with section A.3 and section A.4 as it applies to Prohibition 5 in Attachment A of this Order. If exceedance(s) of water quality standards persist notwithstanding implementation of the Jurisdictional Urban Runoff Management Program and other requirements of this Order, the Copermittee shall assure compliance with section A.3 and section A.4 as it applies to Prohibition 5 in Attachment A of this Order by complying with the following procedure:

      (1) Upon a determination by either the Copermittee or the Regional Board that MS4 discharges are causing or contributing to an exceedance of an applicable water quality standard, the Copermittee shall promptly notify and thereafter submit a report to the Regional Board that describes best management practices (BMPs) that are currently being implemented and additional BMPs that will be implemented to prevent or reduce any pollutants that are causing or contributing to the exceedance of water quality standards. The report may be incorporated in the annual update to the Jurisdictional Urban Runoff Management Program unless the Regional Board directs an earlier submittal. The report shall include an implementation schedule. The Regional Board may require modifications to the report;

      (2) Submit any modifications to the report required by the Regional Board within 30 days of notification;

      (3) Within 30 days following approval of the report described above by the Regional Board, the Copermittee shall revise its Jurisdictional Urban Runoff Management Program and monitoring program to incorporate the approved modified BMPs that have been and will be implemented, the implementation schedule, and any additional monitoring required;

      (4) Implement the revised Jurisdictional Urban Runoff Management Program and monitoring program in accordance with the approved schedule.

   b. So long as the Copermittee has complied with the procedures set forth above and is implementing the revised Jurisdictional Urban Runoff Management Program, the Copermittee does not have to repeat the same procedure for continuing or recurring exceedances of the same receiving water limitations unless directed by the Regional Board to do so.

   c. Nothing in section A.3 shall prevent the Regional Board from enforcing any provision of this Order while the Copermittee prepares and implements the above report.

4. In addition to the above prohibitions, discharges from MS4s are subject to all Basin Plan prohibitions cited in Attachment A to this Order.

B. NON-STORM WATER DISCHARGES

1. Each Copermittee shall effectively prohibit all types of non-storm water discharges into its MS4 unless such discharges are either authorized by a separate National Pollutant Discharge Elimination System (NPDES) permit; or not prohibited in accordance with sections B.2 and B.3 below.

2. The following categories of non-storm water discharges are not prohibited unless a Copermittee or the Regional Board identifies the discharge category as a significant source of pollutants to waters of the U.S. For such a discharge category, the Copermittee shall either prohibit the discharge category or develop and implement appropriate control measures to reduce the discharge of pollutants to the MEP and report to the Regional Board pursuant to section J.

   a. Diverted stream flows;
   b. Rising ground waters;
   c. Uncontaminated ground water infiltration [as defined at 40 CFR 35.2005(20)] to MS4s;
   d. Uncontaminated pumped ground water;
   e. Foundation drains;
   f. Springs;
   g. Water from crawl space pumps;
   h. Footing drains;
   i. Air conditioning condensation;
   j. Flows from riparian habitats and wetlands;
   k. Water line flushing;
   l. Landscape irrigation;
   m. Discharges from potable water sources not subject to NPDES Permit No. CAG679001, other than water main breaks;
   n. Irrigation water;
   o. Lawn watering;
   p. Individual residential car washing; and
   q. Dechlorinated swimming pool discharges.

3. 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 Urban Runoff Management Plan (JURMP), each Copermittee shall develop and implement a program to reduce 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.

4. Each Copermittee shall examine all dry weather field screening and analytical monitoring results collected in accordance with section D.4 of this Order and Receiving Waters Monitoring and Reporting Program No. R9-2007-0001 to identify water quality problems which may be the result of any non-prohibited discharge category(ies) identified above in section B.2. Follow-up investigations shall be conducted as necessary to identify and control any non-prohibited discharge category(ies) listed above.

C. LEGAL AUTHORITY

1. Each Copermittee shall establish, maintain, and enforce adequate legal authority to control pollutant discharges into and from its MS4 through ordinance, statute, permit, contract or similar means. This legal authority must, at a minimum, authorize the Copermittee to:

   a. Control the contribution of pollutants in discharges of runoff associated with industrial and construction activity to its MS4 and control the quality of runoff from industrial and construction sites. This requirement applies both to industrial and construction sites which have coverage under the statewide general industrial or construction storm water permits, as well as to those sites which do not. Grading ordinances shall be upgraded and enforced as necessary to comply with this Order.

   b. Prohibit all identified illicit discharges not otherwise allowed pursuant to section B.2 including but not limited to:

      (1) Sewage;
      (2) Discharges of wash water resulting from the hosing or cleaning of gas stations, auto repair garages, or other types of automotive services facilities;
      (3) Discharges resulting from the cleaning, repair, or maintenance of any type of equipment, machinery, or facility including motor vehicles, cement-related equipment, and port-a-potty servicing, etc.;
      (4) Discharges of wash water from mobile operations such as mobile automobile washing, steam cleaning, power washing, and carpet cleaning, etc.;
      (5) Discharges of wash water from the cleaning or hosing of impervious surfaces in municipal, industrial, commercial, and residential areas including parking lots, streets, sidewalks, driveways, patios, plazas, work yards and outdoor eating or drinking areas, etc.;
      (6) Discharges of runoff from material storage areas containing chemicals, fuels, grease, oil, or other hazardous materials;
      (7) Discharges of pool or fountain water containing chlorine, biocides, or other chemicals; discharges of pool or fountain filter backwash water;
      (8) Discharges of sediment, pet waste, vegetation clippings, or other landscape or construction-related wastes; and
      (9) Discharges of food-related wastes (e.g., grease, fish processing, and restaurant kitchen mat and trash bin wash water, etc.).

   c. Prohibit and eliminate illicit connections to the MS4;

   d. Control the discharge of spills, dumping, or disposal of materials other than storm water to its MS4;

   e. Require compliance with conditions in Copermittee ordinances, permits, contracts or orders (i.e., hold dischargers to its MS4 accountable for their contributions of pollutants and flows);

   f. Utilize enforcement mechanisms to require compliance with Copermittee storm water ordinances, permits, contracts, or orders;

   g. Control the contribution of pollutants from one portion of the shared MS4 to another portion of the MS4 through interagency agreements among Copermittees. Control of

the contribution of pollutants from one portion of the shared MS4 to another portion of the MS4 through interagency agreements with other owners of the MS4 such as Caltrans, the Department of Defense, or Native American Tribes is encouraged;

h. Carry out all inspections, surveillance, and monitoring necessary to determine compliance and noncompliance with local ordinances and permits and with this Order, including the prohibition on illicit discharges to the MS4. This means the Copermittee must have authority to enter, monitor, inspect, take measurements, review and copy records, and require regular reports from industrial facilities discharging into its MS4, including construction sites;

i. Require the use of BMPs to prevent or reduce the discharge of pollutants into MS4s to the MEP; and

j. Require documentation on the effectiveness of BMPs implemented to reduce the discharge of pollutants to the MS4 to the MEP.

2. Each Permittee shall include as part of its JURMP a statement certified by its chief legal counsel that the Copermittee has taken the necessary steps to obtain and maintain full legal authority to implement and enforce each of the requirements contained in 40 CFR 122.26(d)(2)(i)(A-F) and this Order. This statement shall include:

a. Identification of all departments within the jurisdiction that conduct urban runoff related activities, and their roles and responsibilities under this Order. Include an up to date organizational chart specifying these departments and key personnel.

b. Citation of urban runoff related ordinances and the reasons they are enforceable;

c. Identification of the local administrative and legal procedures available to mandate compliance with urban runoff related ordinances and therefore with the conditions of this Order;

d. A description of how urban runoff related ordinances are implemented and appealed; and

e. Description of whether the municipality can issue administrative orders and injunctions or if it must go through the court system for enforcement actions.

D. JURISDICTIONAL URBAN RUNOFF MANAGEMENT PROGRAM

Each Copermittee shall implement all requirements of section D of this Order no later than 365 days after adoption of the Order, unless otherwise specified in this Order. Prior to 365 days after adoption of the Order, each Copermittee shall at a minimum implement its Jurisdictional URMP document, as the document was developed and amended to comply with the requirements of Order No. 2001-01.

Each Copermittee shall develop and implement an updated Jurisdictional Urban Runoff Management Program for its jurisdiction. Each updated Jurisdictional Urban Runoff Management Program shall meet the requirements of section D of this Order, reduce the discharge of pollutants from the MS4 to the MEP, and prevent urban runoff discharges from the MS4 from causing or contributing to a violation of water quality standards.

1. Development Planning Component

Each Copermittee shall implement a program which meets the requirements of this section and (1) reduces Development Project discharges of pollutants from the MS4 to the MEP, (2) prevents Development Project discharges from the MS4 from causing or contributing to a violation of water quality standards, and (3) manages increases in runoff discharge rates and durations from Development Projects that are likely to cause increased erosion of stream beds and banks, silt pollutant generation, or other impacts to beneficial uses and stream habitat due to increased erosive force.

a. GENERAL PLAN

Each Copermittee shall revise as needed its General Plan or equivalent plan (e.g., Comprehensive, Master, or Community Plan) for the purpose of providing effective water quality and watershed protection principles and policies that direct land-use decisions and require implementation of consistent water quality protection measures for Development Projects.

b. ENVIRONMENTAL REVIEW PROCESS

Each Copermittee shall revise as needed their current environmental review processes to accurately evaluate water quality impacts and cumulative impacts and identify appropriate measures to avoid, minimize and mitigate those impacts for all Development Projects.

c. APPROVAL PROCESS CRITERIA AND REQUIREMENTS FOR ALL DEVELOPMENT PROJECTS

For all proposed Development Projects, each Copermittee during the planning process and prior to project approval and issuance of local permits shall prescribe the necessary requirements so that Development Project discharges of pollutants from the MS4 will be reduced to the MEP, will not cause or contribute to a violation of water quality standards, and will comply with Copermittee's ordinances, permits, plans, and requirements, and with this Order. The requirements shall include, but not be limited to, implementation by the project proponent of the following:

(1) Source control BMPs that reduce storm water pollutants of concern in urban runoff, including storm drain system stenciling and signage, properly designed outdoor material storage areas, properly designed trash storage areas, and implementation of efficient irrigation systems;
(2) LID BMPs where feasible which maximize infiltration, provide retention, slow runoff, minimize impervious footprint, direct runoff from impervious areas into landscaping, and construct impervious surfaces to minimum widths necessary;
(3) Buffer zones for natural water bodies, where feasible. Where buffer zones are infeasible, require project proponent to implement other buffers such as trees, access restrictions, etc., where feasible;
(4) Measures necessary so that grading or other construction activities meet the provisions specified in section D.2 of this Order; and
(5) Submittal of proof of a mechanism under which ongoing long-term maintenance of all structural post-construction BMPs will be conducted.

d. STANDARD URBAN STORM WATER MITIGATION PLANS (SUSMPS) – APPROVAL PROCESS CRITERIA AND REQUIREMENTS FOR PRIORITY DEVELOPMENT PROJECTS

Each Copermittee shall implement an updated local SUSMP which meets the requirements of section D.1.d of this Order and (1) reduces Priority Development Project discharges of pollutants from the MS4 to the MEP, (2) prevents Priority Development Project runoff discharges from the MS4 from causing or contributing to a violation of water quality standards, and (3) manages increases in runoff discharge rates and durations from Priority Development Projects that are likely to cause increased erosion of stream beds and banks, silt pollutant generation, or other impacts to beneficial uses and stream habitat due to increased erosive force.[3]

(1) Definition of Priority Development Project

(a) Priority Development Projects are: a) all new Development Projects that fall under the project categories or locations listed in section D.1.d.(2), and b) those redevelopment projects that create, add or replace at least 5,000 square feet of impervious surfaces on an already developed site that falls under the project categories or locations listed in section D.1.d.(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 SUSMP requirements, the numeric sizing criteria discussed in section D.1.d.(6)(c) applies only to the addition, 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, the numeric sizing criteria applies to the entire development. 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 SUSMP requirements.

(b) In addition to the Priority Development Project Categories identified in section D.1.d.(2), within three years of adoption of this Order Priority Development Projects shall also include all other pollutant generating Development Projects that result in the disturbance of one acre or more of land.[4] As an alternative to this one acre threshold, the Copermittees may collectively identify a different threshold, provided the Copermittees' threshold is at least as inclusive of Development Projects as the one acre threshold.

[3] Updated SUSMP and hydromodification requirements shall apply to all priority projects or phases of priority projects which have not yet begun grading or construction activities at the time any updated SUSMP or hydromodification requirement commences. If a Copermittee determines that lawful prior approval of a project exists, whereby application of an updated SUSMP or hydromodification requirement to the project is infeasible, the updated SUSMP or hydromodification requirement need not apply to the project. Where feasible, the Copermittees shall utilize the SUSMP and hydromodification update periods to ensure that projects undergoing approval processes include application of the updated SUSMP and hydromodification requirements in their plans.

[4] Pollutant generating Development Projects are those projects that generate pollutants at levels greater than background levels.

(2) Priority Development Project Categories

(a) Housing subdivisions of 10 or more dwelling units. This category includes single-family homes, multi-family homes, condominiums, and apartments.
(b) Commercial developments greater than one acre. This category is defined as any development on private land that is not for heavy industrial or residential uses where the land area for development is greater than one acre. The category includes, but is not limited to: hospitals; laboratories and other medical facilities; educational institutions; recreational facilities; municipal facilities; commercial nurseries; multi-apartment buildings; car wash facilities; mini-malls and other business complexes; shopping malls; hotels; office buildings; public warehouses; automotive dealerships; airfields; and other light industrial facilities.
(c) Developments of heavy industry greater than one acre. This category includes, but is not limited to, manufacturing plants, food processing plants, metal working facilities, printing plants, and fleet storage areas (bus, truck, etc.).
(d) 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.
(e) 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 greater than 5,000 square feet. Restaurants where land development is less than 5,000 square feet shall meet all SUSMP requirements except for structural treatment BMP and numeric sizing criteria requirement D.1.d.(6)(c) and hydromodification requirement D.1.g.
(f) All hillside development greater than 5,000 square feet. This category is defined as any development which creates 5,000 square feet 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.
(g) Environmentally Sensitive Areas (ESAs). All development located within or directly adjacent to or discharging directly to an ESA (where discharges from the development or redevelopment will enter receiving waters within the ESA), which either creates 2,500 square feet of impervious surface on a proposed project site or increases the area of imperviousness of a proposed project site to 10% or more of its naturally occurring condition. "Directly adjacent" means situated within 200 feet of the ESA. "Discharging directly to" means outflow from a drainage conveyance system that is composed entirely of flows from the subject development or redevelopment site, and not commingled with flows from adjacent lands.
(h) Parking lots 5,000 square feet or more or with 15 or more parking spaces and potentially exposed to urban runoff. Parking lot is defined as a land area or facility for the temporary parking or storage of motor vehicles used personally, for business, or for commerce.
(i) Street, roads, highways, and freeways. This category includes any paved surface that is 5,000 square feet or greater used for the transportation of automobiles, trucks, motorcycles, and other vehicles.
(j) Retail Gasoline Outlets (RGOs). This category includes RGOs that meet the following criteria: (a) 5,000 square feet or more or (b) a projected Average

Daily Traffic (ADT) of 100 or more vehicles per day.

(3) Pollutants of Concern

As part of its local SUSMP, each Copermittee shall develop and implement a procedure for pollutants of concern to be identified for each Priority Development Project. The procedure shall address, at a minimum: (1) Receiving water quality (including pollutants for which receiving waters are listed as impaired under CWA section 303(d)); (2) Land use type of the Development Project and pollutants associated with that land use type; and (3) Pollutants expected to be present on site.

(4) Low Impact Development (LID) BMP Requirements

Each Copermittee shall require each Priority Development Project to implement LID BMPs which will collectively minimize directly connected impervious areas and promote infiltration at Priority Development Projects:

(a) The following LID site design BMPs shall be implemented at all Priority Development Projects as required below:

i. For Priority Development Projects with landscaped or other pervious areas, drain a portion of impervious areas (rooftops, parking lots, sidewalks, walkways, patios, etc) into pervious areas prior to discharge to the MS4. The amount of runoff from impervious areas that is to drain to pervious areas shall correspond with the total capacity of the project's pervious areas to infiltrate or treat runoff, taking into consideration the pervious areas' soil conditions, slope, and other pertinent factors.
ii. For Priority Development Projects with landscaped or other pervious areas, properly design and construct the pervious areas to effectively receive and infiltrate or treat runoff from impervious areas, taking into consideration the pervious areas' soil conditions, slope, and other pertinent factors.
iii. For Priority Development Projects with low traffic areas and appropriate soil conditions, construct a portion of walkways, trails, overflow parking lots, alleys, or other low-traffic areas with permeable surfaces, such as pervious concrete, porous asphalt, unit pavers, and granular materials.

(b) The following LID BMPs listed below shall be implemented at all Priority Development Projects where applicable and feasible.

i. Conserve natural areas, including existing trees, other vegetation, and soils.
ii. Construct streets, sidewalks, or parking lot aisles to the minimum widths necessary, provided that public safety and a walkable environment for pedestrians are not compromised.
iii. Minimize the impervious footprint of the project.
iv. Minimize soil compaction.
v. Minimize disturbances to natural drainages (e.g., natural swales, topographic depressions, etc.)

(5) Source Control BMP Requirements

Each Copermittee shall require each Priority Development Project to implement source control BMPs. The source control BMPs to be required shall:

(a) Minimize storm water pollutants of concern in urban runoff.
(b) Include storm drain system stenciling or signage.
(c) Include properly designed outdoor material storage areas.
(d) Include properly designed trash storage areas.
(e) Include efficient irrigation systems.
(f) Include water quality requirements applicable to individual priority project categories.

(6) Treatment Control BMP Requirements[5]

Each Copermittee shall require each Priority Development Project to implement treatment control BMPs which meet the following treatment control BMP requirements:

(a) Treatment control BMPs for all Priority Development Projects shall mitigate (infiltrate, filter, or treat) the required volume or flow of runoff (identified in section D.1.d.(6)(c)) from all developed portions of the project, including landscaped areas.

(b) All treatment control BMPs shall be located so as to infiltrate, filter, or treat the required runoff volume or flow prior to its discharge to any waters of the U.S. Multiple Priority Development Projects may use shared treatment control BMPs as long as construction of any shared treatment control BMP is completed prior to the use or occupation of any Priority Development Project from which the treatment control BMP will receive runoff.

(c) All treatment control BMPs for a single Priority Development Project shall collectively be sized to comply with the following numeric sizing criteria:

i. Volume-based treatment control BMPs shall be designed to mitigate (infiltrate, filter, or treat) the volume of runoff produced from a 24-hour 85th percentile storm event, as determined from the County of San Diego's 85th Percentile Precipitation Isopluvial Map; or

ii. Flow-based treatment control BMPs shall be designed to mitigate (infiltrate, filter, or treat) either: a) 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 b) 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.

[5] LID BMPs that are correctly designed to effectively infiltrate, filter, or treat runoff can be considered treatment control BMPs.

(d) All treatment control BMPs for Priority Development Projects shall, at a minimum:

i. Be ranked with a high or medium pollutant removal efficiency for the project's most significant pollutants of concern, as the pollutant removal efficiencies are identified in the Copermittees' Model SUSMP and the most current updates thereto. Treatment control BMPs with a low removal efficiency ranking shall 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.
ii. Be correctly sized and designed so as to remove pollutants to the MEP.
iii. Target removal of pollutants of concern from urban runoff.
iv. Be implemented close to pollutant sources (where shared BMPs are not proposed), and prior to discharging into waters of the U.S.
v. Not be constructed within a receiving water.
vi. Include proof of a mechanism, to be provided by the project proponent or Copermittee, under which ongoing long-term maintenance will be conducted.

(7) Update of SUSMP BMP Requirements

The Copermittees shall collectively review and update the BMP requirements that are listed in their local SUSMPs. At a minimum, the update shall include removal of obsolete or ineffective BMPs, addition of LID and source control BMP requirements that meet or exceed the requirements of sections D.1.d.(4) and D.1.d.(5), and addition of LID BMPs that can be used for treatment, such as bioretention cells, bioretention swales, etc. The update shall also add appropriate LID BMPs to any tables or discussions in the local SUSMPs addressing pollutant removal efficiencies of treatment control BMPs. In addition, the update shall include review, and revision where necessary, of treatment control BMP pollutant removal efficiencies.

(8) Update of SUSMPs to Incorporate LID and Other BMP Requirements

(a) In addition to the implementation of the BMP requirements of sections D.1.d.(4-7) within one year of adoption of this Order, the Copermittees shall also develop and submit an updated Model SUSMP that defines minimum LID and other BMP requirements to be incorporated into the Copermittees' local SUSMPs for application to Priority Development Projects. The purpose of the updated Model SUSMP shall be to establish minimum standards to maximize the use of LID practices and principles in local Copermittee programs as a means of reducing stormwater runoff. It shall meet the following minimum requirements:

i. Establishment of LID BMP requirements that meet or exceed the minimum requirements listed in section D.1.d.(4) above.
ii. Establishment of source control BMP requirements that meet or exceed the minimum requirements listed in section D.1.d.(5) above.
iii. Establishment of treatment control BMP requirements that meet or exceed the minimum requirements listed in section D.1.d.(6) above.

iv. Establishment of siting, design, and maintenance criteria for each LID and treatment control BMP listed in the Model SUSMP, so that implemented LID and treatment control BMPs are constructed correctly and are effective at pollutant removal and/or runoff control. LID techniques, such as soil amendments, shall be incorporated into the criteria for appropriate treatment control BMPs.

v. Establishment of criteria to aid in determining Priority Development Project conditions where implementation of each LID BMP listed in section D.1.d.(4)(b) is applicable and feasible.

vi. Establishment of a requirement for Priority Development Projects with low traffic areas and appropriate or amendable soil conditions to construct a portion of walkways, trails, overflow parking lots, alleys, or other low-traffic areas with permeable surfaces, such a pervious concrete, porous asphalt, unit pavers, and granular materials.

vii. Establishment of restrictions on infiltration of runoff from Priority Development Project categories or Priority Development Project areas that generate high levels of pollutants, if necessary.

(b) The updated Model SUSMP shall be submitted within 18 months of adoption of this Order. If, within 60 days of submittal of the updated Model SUSMP, the Copermittees have not received in writing from the Regional Board either (1) a finding of adequacy of the updated Model SUSMP or (2) a modified schedule for its review and revision, the updated Model SUSMP shall be deemed adequate, and the Copermittees shall implement its provisions in accordance with section D.1.d.(8)(c) below.

(c) Within 365 days of Regional Board acceptance of the updated Model SUSMP, each Copermittee shall update its local SUSMP to implement the requirements established pursuant to section D.1.d.(8)(a). In addition to the requirements of section D.1.d.(8)(a), each Copermittee's updated local SUSMP shall include the following:

i. A requirement that each Priority Development Project use the criteria established pursuant to section D.1.d.(8)(a)v to demonstrate applicability and feasibility, or lack thereof, of implementation of the LID BMPs listed in section D.1.d.(4)(b).

ii. A review process which verifies that all BMPs to be implemented will meet the designated siting, design, and maintenance criteria, and that each Priority Development Project is in compliance with all applicable SUSMP requirements.

(9) Implementation Process

As part of its local SUSMP, each Copermittee shall implement a process to verify compliance with SUSMP requirements. The process shall identify at what point in the planning process Priority Development Projects will be required to meet SUSMP requirements. The process shall also include identification of the roles and responsibilities of various municipal departments in implementing the SUSMP requirements, as well as any other measures necessary for the implementation of SUSMP requirements.

(10) Downstream Erosion

As part of its local SUSMP, each Copermittee shall develop and apply criteria to Priority Development Projects so that runoff discharge rates, durations, and velocities from Priority Development Projects are controlled to maintain or reduce downstream erosion conditions and protect stream habitat. Upon adoption of the Hydromodification Management Plan (HMP) by the Regional Board (section D.1.g), individual Copermittee criteria for control of downstream erosion shall be superseded by criteria identified in the HMP.

(11) Waiver Provision

(a) A Copermittee may provide for a project to be waived from the requirement of meeting numeric sizing criteria (sections D.1.d.(6)(c) or D.1.d.(8)(a)iii) if infeasibility can be established. A waiver of infeasibility shall only be granted by a Copermittee when all available BMPs have been considered and rejected as infeasible. Copermittees shall notify the Regional Board within 5 days of each waiver issued and shall include the following information in the notification:

i. Name of the person granting each waiver;
ii. Name of developer receiving the waiver;
iii. Site location;
iv. Reason for waiver; and
v. Description of BMPs required.

(b) The Copermittees may collectively or individually develop a program to require project proponents who have received waivers to transfer the savings in cost, as determined by the Copermittee(s), to a storm water mitigation fund. This program may be implemented by all Copermittees that issue waivers. Funds may be used on projects to improve urban runoff quality within the watershed of the waived project. The waiver mitigation program should, at a minimum, identify:

i. The entity or entities that will manage the storm water mitigation fund (i.e., assume full responsibility for);
ii. The range and types of acceptable projects for which mitigation funds may be expended;
iii. The entity or entities that will assume full responsibility for each mitigation project including its successful completion; and
iv. How the dollar amount of fund contributions will be determined.

(12) Infiltration and Groundwater Protection

To protect groundwater quality, each Copermittee shall apply restrictions to the use of treatment control BMPs that are designed to primarily function as centralized infiltration devices (such as large infiltration trenches and infiltration basins). Such restrictions shall be designed so that the use of such infiltration treatment control BMPs shall not cause or contribute to an exceedance of groundwater quality objectives. At a minimum, each treatment control BMP designed to primarily function as a centralized infiltration device shall meet the restrictions below, unless it is demonstrated that a restriction is not necessary to

protect groundwater quality. The Copermittees may collectively or individually develop alternative restrictions on the use of treatment control BMPs which are designed to primarily function as centralized infiltration devices. Alternative restrictions developed by the Copermittees can partially or wholly replace the restrictions listed below. The restrictions are not intended to be applied to small infiltration systems dispersed throughout a development project.

(a) Urban runoff shall undergo pretreatment such as sedimentation or filtration prior to infiltration;
(b) All dry weather flows containing significant pollutant loads shall be diverted from infiltration devices;
(c) Pollution prevention and source control BMPs shall be implemented at a level appropriate to protect groundwater quality at sites where infiltration treatment control BMPs are to be used;
(d) Infiltration treatment control BMPs shall be adequately maintained so that they remove pollutants to the MEP;
(e) The vertical distance from the base of any infiltration treatment control BMP to the seasonal high groundwater mark shall 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;
(f) The soil through which infiltration is to occur shall have physical and chemical characteristics (such as appropriate cation exchange capacity, organic content, clay content, and infiltration rate) which are adequate for proper infiltration durations and treatment of urban runoff for the protection of groundwater beneficial uses;
(g) Infiltration treatment control BMPs shall not be used for areas of industrial or light industrial activity; areas subject to high vehicular traffic (25,000 or greater average daily traffic on main roadway or 15,000 or more average daily traffic on any intersecting roadway); automotive repair shops; car washes; fleet storage areas (bus, truck, etc.); nurseries[6]; and other high threat to water quality land uses and activities as designated by each Permittee; and
(h) Infiltration treatment control BMPs shall be located a minimum of 100 feet horizontally from any water supply wells.

e. TREATMENT CONTROL BMP MAINTENANCE TRACKING

(1) Each Copermittee shall develop and utilize a watershed-based database to track and inventory approved treatment control BMPs and treatment control BMP maintenance within its jurisdiction. At a minimum, the database shall include information on treatment control BMP type, location, watershed, date of construction, party responsible for maintenance, maintenance certifications or verifications, inspections, inspection findings, and corrective actions.

(2) Each Copermittee shall develop and implement a program to verify that approved treatment control BMPs are operating effectively and have been adequately maintained. At a minimum, the program shall include the following:

(a) An annual inventory of all approved treatment control BMPs within the Copermittee's jurisdiction. The inventory shall also include all treatment control BMPs approved during the previous permit cycle.

[6] Except with regard to treated nursery runoff or clean storm water runoff.

(b) The prioritization of all projects with approved treatment control BMPs into high, medium, and low priority categories. At a minimum, projects with drainage insert treatment control BMPs shall be designated as at least a medium priority. Prioritization of other projects with treatment control BMPs shall include consideration of treatment control BMP size, recommended maintenance frequency, likelihood of operational and maintenance issues, location, receiving water quality, and other pertinent factors.

(c) 100% of projects with treatment control BMPs that are high priority shall be inspected by the Copermittee annually. 50% of projects with drainage insert treatment control BMPs shall be inspected by the Copermittee annually. Treatment control BMPs that are low priority shall be inspected as needed. All inspections shall verify effective operation and maintenance of the treatment control BMPs, as well as compliance with all ordinances, permits, and this Order. A minimum of 20% of the total number of projects with approved treatment control BMPs, and a maximum of 200% of the average number of projects with treatment control BMPs approved per year, shall be inspected annually.

(d) Requirement of annual verification of effective operation and maintenance of each approved treatment control BMP by the party responsible for the treatment control BMP maintenance.

(3) Operation and maintenance verifications shall be required prior to each rainy season.

(4) Inspections of high priority treatment control BMPs shall be conducted prior to each rainy season.

f. BMP VERIFICATION

Prior to occupancy of each Priority Development Project subject to SUSMP requirements, each Copermittee shall inspect the constructed LID, source control, and treatment control BMPs to verify that they have been constructed in compliance with all specifications, plans, permits, ordinances, and this Order. This initial BMP verification inspection does not constitute an operation and maintenance inspection, as required above in section D.1.e.(2)(c).

g. HYDROMODIFICATION - LIMITATIONS ON INCREASES OF RUNOFF DISCHARGE RATES AND DURATIONS[7]

Each Copermittee shall collaborate with the other Copermittees to develop and implement a Hydromodification Management Plan (HMP) to manage increases in runoff discharge rates and durations from all Priority Development Projects, where such increased rates and durations are likely to cause increased erosion of channel

[7] Updated SUSMP and hydromodification requirements shall apply to all priority projects or phases of priority projects which have not yet begun grading or construction activities at the time any updated SUSMP or hydromodification requirement commences. If a Copermittee determines that lawful prior approval of a project exists, whereby application of an updated SUSMP or hydromodification requirement to the project is infeasible, the updated SUSMP or hydromodification requirement need not apply to the project. Where feasible, the Copermittees shall utilize the SUSMP and hydromodification update periods to ensure that projects undergoing approval processes include application of the updated SUSMP and hydromodification requirements in their plans.

beds and banks, sediment pollutant generation, or other impacts to beneficial uses and stream habitat due to increased erosive force. The HMP, once approved by the Regional Board, shall be incorporated into the local SUSMP and implemented by each Copermittee so that post-project runoff discharge rates and durations shall not exceed estimated pre-project discharge rates and durations where the increased discharge rates and durations will result in increased potential for erosion or other significant adverse impacts to beneficial uses, attributable to changes in the discharge rates and durations.

(1) The HMP shall:

(a) Identify a standard for channel segments which receive urban runoff discharges from Priority Development Projects. The channel standard shall maintain the pre-project erosion and deposition characteristics of channel segments receiving urban runoff discharges from Priority Development Projects as necessary to maintain or improve the channel segments' stability conditions.

(b) Utilize continuous simulation of the entire rainfall record to identify a range of runoff flows[8] for which Priority Development Project post-project runoff flow rates and durations shall not exceed pre-project runoff flow rates and durations, where the increased flow rates and durations will result in increased potential for erosion or other significant adverse impacts to beneficial uses, attributable to changes in the flow rates and durations. The lower boundary of the range of runoff flows identified shall 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. The identified range of runoff flows may be different for specific watersheds, channels, or channel reaches.

(c) Require Priority Development Projects to implement hydrologic control measures so that Priority Development Projects' post-project runoff flow rates and durations (1) do not exceed pre-project runoff flow rates and durations for the range of runoff flows identified under section D.1.g.(1)(b), where the increased flow rates and durations will result in increased potential for erosion or other significant adverse impacts to beneficial uses, attributable to changes in the flow rates and durations, and (2) do not result in channel conditions which do not meet the channel standard developed under section D.1.g.(1)(a) for channel segments downstream of Priority Development Project discharge points.

(d) Include other performance criteria (numeric or otherwise) for Priority Development Projects as necessary to prevent urban runoff from the projects from increasing erosion of channel beds and banks, silt pollutant generation, or other impacts to beneficial uses and stream habitat due to increased erosive force.

(e) Include a review of pertinent literature.

(f) Include a protocol to evaluate potential hydrograph change impacts to downstream watercourses from Priority Development Projects.

(g) Include a description of how the Copermittees will incorporate the HMP requirements into their local approval processes.

[8] The identified range of runoff flows to be controlled should be expressed in terms of peak flow rates of rainfall events, such as "10% of the pre-project 2-year peak flow up to the pre-project 10-year peak flow."

(h) Include criteria on selection and design of management practices and measures (such as detention, retention, and infiltration) to control flow rates and durations and address potential hydromodification impacts.
(i) Include technical information supporting any standards and criteria proposed.
(j) Include a description of inspections and maintenance to be conducted for management practices and measures to control flow rates and durations and address potential hydromodification impacts.
(k) Include a description of pre- and post-project monitoring and other program evaluations to be conducted to assess the effectiveness of implementation of the HMP.
(l) Include mechanisms for addressing cumulative impacts within a watershed on channel morphology.
(m) Include information on evaluation of channel form and condition, including slope, discharge, vegetation, underlying geology, and other information, as appropriate.

(2) The HMP may include implementation of planning measures (e.g., buffers and restoration activities, including revegetation, use of less-impacting facilities at the point(s) of discharge, etc.) to allow expected changes in stream channel cross sections, vegetation, and discharge rates, velocities, and/or durations without adverse impacts to channel beneficial uses. Such measures shall not include utilization of non-naturally occurring hardscape materials such as concrete, riprap, gabions, etc.

(3) Section D.1.g.(1)(c) does not apply to Development Projects where the project discharges stormwater runoff into channels or storm drains where the pre-existing channel or storm drain conditions result in minimal potential for erosion or other impacts to beneficial uses. Such situations may include discharges into channels that are concrete-lined or significantly hardened (e.g., with rip-rap, sackrete, etc.) downstream to their outfall in bays or the ocean; underground storm drains discharging to bays or the ocean; and construction of projects where the sub-watersheds below the projects' discharge points are highly impervious (e.g., >70%) and the potential for single-project and/or cumulative impacts is minimal. Specific criteria for identification of such situations shall be included as a part of the HMP. However, plans to restore a channel reach may re-introduce the applicability of HMP controls, and would need to be addressed in the HMP.

(4) <u>HMP Reporting</u>

The Copermittees shall collaborate to report on HMP development as required in section J.2.a of this Order.

(5) <u>HMP Implementation</u>

180 days after approval of the HMP by the Regional Board, each Copermittee shall incorporate into its local SUSMP and implement the HMP for all applicable Priority Development Projects. Prior to approval of the HMP by the Regional Board, the early implementation of measures likely to be included in the HMP shall be encouraged by the Copermittees.

(6) Interim Hydromodification Criteria for Projects Disturbing 50 Acres or More

Within 365 days of adoption of this Order, the Copermittees shall collectively identify an interim range of runoff flow rates for which Priority Development Project post-project runoff flow rates and durations shall not exceed pre-project runoff flow rates and durations (Interim Hydromodification Criteria), where the increased discharge flow rates and durations will result in increased potential for erosion or other significant adverse impacts to beneficial uses, attributable to changes in flow rates and durations. Development of the Interim Hydromodification Criteria shall include identification of methods to be used by Priority Development Projects to exhibit compliance with the criteria, including continuous simulation of the entire rainfall record. Starting 365 days after adoption of this Order and until the final Hydromodification Management Plan standard and criteria are implemented, each Copermittee shall require Priority Development Projects disturbing 50 acres or more to implement hydrologic controls to manage post-project runoff flow rates and durations as required by the Interim Hydromodification Criteria. Development Projects disturbing 50 acres or more are exempt from this requirement when:

(a) The project would discharge into channels that are concrete-lined or significantly hardened (e.g., with rip-rap, sackcrete, etc.) downstream to their outfall in bays or the ocean;
(b) The project would discharge into underground storm drains discharging directly to bays or the ocean; or
(c) The project would discharge to a channel where the watershed areas below the project's discharge points are highly impervious (e.g. >70%).

h. ENFORCEMENT OF DEVELOPMENT SITES

Each Copermittee shall enforce its storm water ordinance for all Development Projects and at all development sites as necessary to maintain compliance with this Order. Copermittee ordinances or other regulatory mechanisms shall include appropriate sanctions to achieve compliance. Sanctions shall include the following or their equivalent: Non-monetary penalties, fines, bonding requirements, and/or permit or occupancy denials for non-compliance.

2. Construction Component

Each Copermittee shall implement a construction program which meets the requirements of this section, reduces construction site discharges of pollutants from the MS4 to the MEP, and prevents construction site discharges from the MS4 from causing or contributing to a violation of water quality standards.

a. ORDINANCE UPDATE AND APPROVAL PROCESS

(1) Within 365 days of adoption of this Order, each Copermittee shall review and update its grading ordinances and other ordinances as necessary to achieve full compliance with this Order, including requirements for the implementation of all designated BMPs and other measures.

(2) Prior to approval and issuance of local construction and grading permits, each Copermittee shall:

(a) Require all individual proposed construction sites to implement designated BMPs and other measures so that pollutants discharged from the site will be reduced to the maximum extent practicable and will not cause or contribute to a violation of water quality standards.
(b) Prior to permit issuance, require and review the project proponent's storm water management plan to verify compliance with their grading ordinance, other ordinances, and this Order.
(c) Verify that project proponents subject to California's statewide General NPDES Permit for Storm Water Discharges Associated With Construction Activities, (hereinafter General Construction Permit), have existing coverage under the General Construction Permit.

b. SOURCE IDENTIFICATION

Each Copermittee shall maintain and update monthly a watershed based inventory of all construction sites within its jurisdiction. The use of an automated database system, such as Geographical Information System (GIS) is highly recommended.

c. BMP IMPLEMENTATION

(1) Each Copermittee shall designate a minimum set of BMPs and other measures to be implemented at construction sites. The designated minimum set of BMPs shall include, at a minimum:

(a) General Site Management

i. Pollution prevention, where appropriate.
ii. Development and implementation of a storm water management plan.
iii. Minimization of areas that are cleared and graded to only the portion of the site that is necessary for construction;
iv. Minimization of exposure time of disturbed soil areas;
v. Minimization of grading during the wet season and correlation of grading with seasonal dry weather periods to the extent feasible.
vi. Limitation of grading to a maximum disturbed area as determined by each Copermittee before either temporary or permanent erosion controls are implemented to prevent storm water pollution. The Copermittee has the option of temporarily increasing the size of disturbed soil areas by a set amount beyond the maximum, if the individual site is in compliance with applicable storm water regulations and the site has adequate control practices implemented to prevent storm water pollution.
vii. Temporary stabilization and reseeding of disturbed soil areas as rapidly as feasible;
viii. Preservation of natural hydrologic features where feasible;
ix. Preservation of riparian buffers and corridors where feasible;
x. Maintenance of all BMPs, until removed; and
xi. Retention, reduction, and proper management of all pollutant discharges on site to the MEP standard.

(b) Erosion and Sediment Controls

i. Erosion prevention, to be used as the most important measure for keeping sediment on site during construction, but never as the single method;
ii. Sediment controls, to be used as a supplement to erosion prevention for keeping sediment on-site during construction;
iii. Slope stabilization on all inactive slopes during the rainy season and during rain events in the dry season;
iv. Slope stabilization on all active slopes during rain events regardless of the season; and
v. Permanent revegetation or landscaping as early as feasible.

(2) Each Copermittee shall require implementation of advanced treatment for sediment at construction sites that are determined by the Copermittee to be an exceptional threat to water quality. In evaluating the threat to water quality, the following factors shall be considered by the Copermittee:

(a) Soil erosion potential or soil type;
(b) The site's slopes;
(c) Project size and type;
(d) Sensitivity of receiving water bodies;
(e) Proximity to receiving water bodies;
(f) Non-storm water discharges;
(g) Ineffectiveness of other BMPs; and
(h) Any other relevant factors.

(3) Each Copermittee shall implement, or require the implementation of, the designated minimum BMPs and any additional measures necessary to comply with this Order at each construction site within its jurisdiction year round. However, BMP implementation requirements can vary based on wet and dry seasons. Dry season BMP implementation must plan for and address rain events that may occur during the dry season.

(4) Each Copermittee shall implement, or require implementation of, additional controls for construction sites tributary to CWA section 303(d) water body segments impaired for sediment as necessary to comply with this Order. Each Copermittee shall implement, or require implementation of, additional controls for construction sites within or adjacent to or discharging directly to coastal lagoons or other receiving waters within environmentally sensitive areas (as defined in section Attachment C of this Order) as necessary to comply with this Order.

d. INSPECTION OF CONSTRUCTION SITES

Each Copermittee shall conduct construction site inspections for compliance with its local ordinances (grading, storm water, etc.), permits (construction, grading, etc.), and this Order.

(1) During the wet season, each Copermittee shall inspect at least biweekly (every two weeks), all construction sites within its jurisdiction meeting the following

criteria:

(a) All sites 50 acres or more in size and grading will occur during the wet season;
(b) All sites 1 acre or more, and tributary to a CWA section 303(d) water body segment impaired for sediment or within or directly adjacent to or discharging directly to a receiving water within an ESA; and
(c) Other sites determined by the Copermittees or the Regional Board as a significant threat to water quality. In evaluating threat to water quality, the following factors shall be considered:

i. soil erosion potential;
ii. site slope;
iii. project size and type;
iv. sensitivity of receiving water bodies;
v. proximity to receiving water bodies;
vi. non-storm water discharges;
vii. past record of non-compliance by the operators of the construction site; and
viii. any other relevant factors.

(2) During the wet season, each Copermittee shall inspect at least monthly, all construction sites with one acre or more of soil disturbance not meeting the criteria specified above in section D.2.c.(1).

(3) During the wet season, each Copermittee shall inspect as needed, construction sites less than 1 acre in size.

(4) Each Copermittee shall inspect all construction sites as needed during the dry season.

(5) Based upon site inspection findings, each Copermittee shall implement all follow-up actions (i.e., reinspection, enforcement) necessary to comply with this Order.

(6) Inspections of construction sites shall include, but not be limited to:

(a) Check for coverage under the General Construction Permit (Notice of Intent (NOI) and/or Waste Discharge Identification No.) during initial inspections;
(b) Assessment of compliance with Permittee ordinances and permits related to urban runoff, including the implementation and maintenance of designated minimum BMPs;
(c) Assessment of BMP effectiveness;
(d) Visual observations for non-storm water discharges, potential illicit connections, and potential discharge of pollutants in storm water runoff;
(e) Education and outreach on storm water pollution prevention, as needed; and
(f) Creation of a written or electronic inspection report.

(7) The Copermittees shall track the number of inspections for the inventoried construction sites throughout the reporting period to verify that the sites are inspected at the minimum frequencies required.

e. ENFORCEMENT OF CONSTRUCTION SITES

Each Copermittee shall develop and implement an escalating enforcement process that achieves prompt corrective actions at construction sites for violations of the Copermittee's water quality protection permit requirements and ordinances. This enforcement process shall include authorizing the Copermittee's construction site inspectors to take immediate enforcement actions when appropriate and necessary. The enforcement process shall include appropriate sanctions such as stop work orders, non-monetary penalties, fines, bonding requirements, and/or permit denials for non-compliance.

f. REPORTING OF NON-COMPLIANT SITES

In addition to the notification requirements in section 5(e) of Attachment B, each Copermittee shall notify the Regional Board when the Copermittee issues a stop work order or other high level enforcement to a construction site in their jurisdiction as a result of storm water violations.

3. Existing Development Component

a. MUNICIPAL

Each Copermittee shall implement a municipal program which meets the requirements of this section, reduces municipal discharges of pollutants from the MS4 to the MEP, and prevents municipal discharges from the MS4 from causing or contributing to a violation of water quality standards.

(1) Source Identification

Each Copermittee shall annually update a watershed based inventory of municipal areas and activities. The inventory shall include the name, address (if applicable), and a description of the area/activity, which pollutants are potentially generated by the area/activity, and identification of whether the area/activity is tributary to a CWA section 303(d) water body segment and generates pollutants for which the water body segment is impaired. The use of an automated database system, such as Geographical Information System (GIS) is highly recommended when applicable, but not required.

(2) BMP Implementation

(a) Each Copermittee shall implement pollution prevention methods in its municipal program and shall require their use by appropriate municipal departments and personnel, where appropriate.

(b) Each Copermittee shall designate a minimum set of BMPs for all municipal areas and activities. The designated minimum BMPs for municipal areas and activities shall be area or activity specific as appropriate.

(c) Each Copermittee shall implement, or require the implementation of, the designated minimum BMPs and any additional measures necessary to comply with this Order for each municipal area or activity within its

jurisdiction.

(d) Each Copermittee shall evaluate existing flood control devices to determine if retrofitting the device to provide additional pollutant removal from urban runoff is feasible. When conducting flood control device retrofit projects, each Copermittee shall incorporate permanent pollutant removal measures into the projects, where feasible.

(e) Each Copermittee shall implement, or require implementation of, any additional controls for municipal areas and activities tributary to CWA section 303(d) impaired water body segments (where an area or activity generates pollutants for which the water body segment is impaired) as necessary to comply with this Order. Each Copermittee shall implement, or require implementation of, additional controls for municipal areas and activities within or directly adjacent to or discharging directly to coastal lagoons or other receiving waters within environmentally sensitive areas (as defined in Attachment C of this Order) as necessary to comply with this Order.

(f) Each Copermittee shall implement, or require implementation of, additional controls for special events within their jurisdiction that are expected to generate significant trash and litter. Controls to consider shall include:

i. Temporary screens on catch basins and storm drain inlets;
ii. Temporary fencing to prevent windblown trash from entering adjacent water bodies and MS4 channels;
iii. Proper management of trash and litter;
iv. Catch basin cleaning following the special event and prior to an anticipated rain event;
v. Street sweeping of roads, streets, highways and parking facilities following the special event; and
vi. Other equivalent controls.

(3) <u>Operation and Maintenance of Municipal Separate Storm Sewer System and Structural Controls</u>

(a) Each Copermittee shall implement a schedule of inspection and maintenance activities to verify proper operation of all municipal structural treatment controls designed to reduce pollutant discharges to or from its MS4s and related drainage structures.

(b) Each Copermittee shall implement a schedule of maintenance activities for the MS4 and MS4 facilities (catch basins, storm drain inlets, open channels, etc). The maintenance activities shall, at a minimum, include:

i. Inspection at least once a year between May 1 and September 30 of each year for all MS4 facilities that receive or collect high volumes of trash and debris. All other MS4 facilities shall be inspected at least annually throughout the year.
ii. Following two years of inspections, any MS4 facility that requires inspection and cleaning less than annually may be inspected as needed, but not less that every other year.

iii. Any catch basin or storm drain inlet that has accumulated trash and debris greater than 33% of design capacity shall be cleaned in a timely manner. Any MS4 facility that is designed to be self cleaning shall be cleaned of any accumulated trash and debris immediately. Open channels shall be cleaned of observed anthropogenic litter in a timely manner.
iv. Record keeping of the maintenance and cleaning activities including the overall quantity of waste removed.
v. Proper disposal of waste removed pursuant to applicable laws.
vi. Measures to eliminate waste discharges during MS4 maintenance and cleaning activities.

(4) Management of Pesticides, Herbicides, and Fertilizers

The Copermittees shall implement BMPs to reduce the contribution of pollutants associated with the application, storage, and disposal of pesticides, herbicides and fertilizers from municipal areas and activities to MS4s. Important municipal areas and activities include municipal facilities, public rights-of-way, parks, recreational facilities, golf courses, cemeteries, botanical or zoological gardens and exhibits, landscaped areas, etc.

Such BMPs shall include, at a minimum: (1) educational activities, permits, certifications and other measures for municipal applicators and distributors; (2) integrated pest management measures that rely on non-chemical solutions; (3) the use of native vegetation; (4) schedules for irrigation and chemical application; and (5) the collection and proper disposal of unused pesticides, herbicides, and fertilizers.

(5) Sweeping of Municipal Areas

Each Copermittee shall implement a program to sweep improved (possessing a curb and gutter) municipal roads, streets, highways, and parking facilities. The program shall include the following measures:

(a) Roads, streets, highways, and parking facilities identified as consistently generating the highest volumes of trash and/or debris shall be swept at least two times per month.

(b) Roads, streets, highways, and parking facilities identified as consistently generating moderate volumes of trash and/or debris shall be swept at least monthly.

(c) Roads, streets, highways, and parking facilities identified as generating low volumes of trash and/or debris shall be swept as necessary, but no less than once per year.

(6) Infiltration From Sanitary Sewer to MS4/Provide Preventive Maintenance of Both

Each Copermittee shall implement controls and measures to prevent and eliminate infiltration of seepage from municipal sanitary sewers to MS4s through thorough, routine preventive maintenance of the MS4. Each Copermittee that

operates both a municipal sanitary sewer system and a MS4 shall implement controls and measures to prevent and eliminate infiltration of seepage from the municipal sanitary sewers to the MS4s that shall include overall sanitary sewer and MS4 surveys and thorough, routine preventive maintenance of both.

(7) Inspection of Municipal Areas and Activities

(a) At a minimum, each Copermittee shall inspect the following high priority municipal areas and activities annually:

i. Roads, Streets, Highways, and Parking Facilities.
ii. Flood Management Projects and Flood Control Devices.
iii. Areas and activities tributary to a C WA section 303(d) impaired water body segment, where an area or activity generates pollutants for which the water body segment is impaired. Areas and activities within or adjacent to or discharging directly to coastal lagoons or other receiving waters within environmentally sensitive areas (as defined in Attachment C of this Order).
iv. Municipal Facilities.
[1] Active or closed municipal landfills;
[2] Publicly owned treatment works (including water and wastewater treatment plants) and sanitary sewage collection systems;
[3] Solid waste transfer facilities;
[4] Land application sites;
[5] Corporate yards including maintenance and storage yards for materials, waste, equipment and vehicles; and
[6] Household hazardous waste collection facilities.
v. Municipal airfields.
vi. Parks and recreation facilities.
vii. Special event venues following special events (festivals, sporting events, etc.)
viii. Power washing.
ix. Other municipal areas and activities that the Copermittee determines may contribute a significant pollutant load to the MS4.

(b) Other municipal areas and activities shall be inspected as needed.

(c) Based upon site inspection findings, each Copermittee shall implement all follow-up actions necessary to comply with this Order.

(8) Enforcement of Municipal Areas and Activities

Each Copermittee shall enforce its storm water ordinance for all municipal areas and activities as necessary to maintain compliance with this Order.

b. INDUSTRIAL AND COMMERCIAL

Each Copermittee shall implement an industrial and commercial program which meets the requirements of this section, reduces industrial and commercial discharges of pollutants from the MS4 to the MEP, and prevents industrial and commercial discharges from the MS4 from causing or contributing to a violation of water quality standards.

(1) Source Identification

Each Copermittee shall annually update a watershed-based inventory of all industrial and commercial sites/sources within its jurisdiction (regardless of ownership) that could contribute a significant pollutant load to the MS4. The inventory shall include the following minimum information for each industrial and commercial site/source: name; address; pollutants potentially generated by the site/source (and identification of whether the site/source is tributary to a Clean Water Act section 303(d) water body segment and generates pollutants for which the water body segment is impaired); and a narrative description including SIC codes which best reflects the principal products or services provided by each facility. The use of an automated database system, such as Geographical Information System (GIS) is highly recommended.

At a minimum, the following sites/sources shall be included in the inventory:

(a) Commercial Sites/Sources:

i. Automobile repair, maintenance, fueling, or cleaning;
ii. Airplane repair, maintenance, fueling, or cleaning;
iii. Boat repair, maintenance, fueling, or cleaning;
iv. Equipment repair, maintenance, fueling, or cleaning;
v. Automobile and other vehicle body repair or painting;
vi. Mobile automobile or other vehicle washing;
vii. Automobile (or other vehicle) parking lots and storage facilities;
viii. Retail or wholesale fueling;
ix. Pest control services;
x. Eating or drinking establishments, including food markets;
xi. Mobile carpet, drape or furniture cleaning;
xii. Cement mixing or cutting;
xiii. Masonry;
xiv. Painting and coating;
xv. Botanical or zoological gardens and exhibits;
xvi. Landscaping;
xvii. Nurseries and greenhouses;
xviii. Golf courses, parks and other recreational areas/facilities;
xix. Cemeteries;
xx. Pool and fountain cleaning;
xxi. Marinas;
xxii. Portable sanitary services;
xxiii. Building material retailers and storage;
xxiv. Animal facilities; and
xxv. Power washing services.

(b) Industrial Sites/Sources:

i. Industrial Facilities, as defined at 40 CFR § 122.26(b)(14), including those subject to the General Industrial Permit or other individual NPDES permit;
ii. Operating and closed landfills;
iii. Facilities subject to SARA Title III; and

iv. Hazardous waste treatment, disposal, storage and recovery facilities.

(c) All other commercial or industrial sites/sources tributary to a CWA Section 303(d) impaired water body segment, where the site/source generates pollutants for which the water body segment is impaired. All other commercial or industrial sites/sources within or directly adjacent to or discharging directly to coastal lagoons or other receiving waters within environmentally sensitive areas (as defined in Attachment C of this Order).

(d) All other commercial or industrial sites/sources that the Copermittee determines may contribute a significant pollutant load to the MS4.

(2) BMP Implementation

(a) Each Copermittee shall require the use of pollution prevention methods by industrial and commercial sites/sources, where appropriate.

(b) Each Copermittee shall designate a minimum set of BMPs for all industrial and commercial sites/sources. The designated minimum BMPs shall be specific to facility types and pollutant generating activities, as appropriate.

(c) Within the first three years of implementation of the updated Jurisdictional Urban Runoff Management Program, each Copermittee shall notify the owner/operator of each inventoried industrial and commercial site/source of the BMP requirements applicable to the site/source.

(d) Each Copermittee shall implement, or require the implementation of, the designated minimum BMPs and any additional measures necessary to comply with this Order at each industrial and commercial site/source within its jurisdiction.

(e) Each Copermittee shall implement, or require implementation of, additional controls for industrial and commercial sites/sources tributary to CWA section 303(d) impaired water body segments (where a site/source generates pollutants for which the water body segment is impaired) as necessary to comply with this Order. Each Copermittee shall implement, or require implementation of, additional controls for industrial and commercial sites/sources within or directly adjacent to or discharging directly to coastal lagoons or other receiving waters within environmentally sensitive areas (as defined in Attachment C of this Order) as necessary to comply with this Order.

(3) Inspection of Industrial and Commercial Sites/Sources

(a) Each Copermittee shall conduct industrial and commercial site inspections for compliance with its ordinances, permits, and this Order. Inspections shall include but not be limited to:

i. Review of BMP implementation plans, if the site uses or is required to use such a plan;
ii. Review of facility monitoring data, if the site monitors its runoff;

iii. Check for coverage under the General Industrial Permit (Notice of Intent (NOI) and/or Waste Discharge Identification No.), if applicable;
iv. Assessment of compliance with Copermittee ordinances and permits related to urban runoff;
v. Assessment of BMP implementation, maintenance and effectiveness;
vi. Visual observations for non-storm water discharges, potential illicit connections, and potential discharge of pollutants in storm water runoff; and
vii. Education and training on storm water pollution prevention, as conditions warrant.

(b) At a minimum, 50% of all sites (excluding mobile sources) determined to pose a high threat to water quality shall be inspected in the first year of implementation of the updated Jurisdictional Urban Runoff Management Program, regardless of whether this exceeds the number of inspections required in section D.3.b.(3)(c). This requirement shall increase to 100% of the sites in the second year, and 100% annually thereafter. In any year that the total number of required inspection per section D.3.b.(3)(c) exceeds the number of high threat to water quality sites, all high threat to water quality sites shall be inspected. In evaluating threat to water quality, each Copermittee shall address, at a minimum, the following:

i. Type of activity (SIC code);
ii. Materials used at the facility;
iii. Wastes generated;
iv. Pollutant discharge potential;
v. Non-storm water discharges;
vi. Size of facility;
vii. Proximity to receiving water bodies;
viii. Sensitivity of receiving water bodies;
ix. Whether the facility is subject to the General Industrial Permit or an individual NPDES permit;
x. Whether the facility has filed a No Exposure Certification/Notice of Non-Applicability;
xi. Facility design;
xii. Total area of the site, area of the site where industrial or commercial activities occur, and area of the site exposed to rainfall and runoff;
xiii. The facility's compliance history; and
xiv. Any other relevant factors.

(c) At a minimum, 20% of the sites inventoried as required in section D.3.b.(1) above (excluding mobile sources) shall be inspected in the first year of implementation of the updated Jurisdictional Urban Runoff Management Program. This requirement shall increase to 25% of the sites in the second year, and 25% annually thereafter.

(d) Each Copermittee may develop and implement a third party inspection program for verifying industrial and commercial site/source compliance with its ordinances, permits, and this Order. The third party inspections can satisfy up to 30% of the inspection requirements in section D.3.b(3)(c), with the Copermittee having to fulfill the remaining required inspections. To the extent that third party inspections are conducted to fulfill the requirements of

section D.3.b(3)(c), the Copermittee will be responsible for the inspection of an additional site for every three sites inspected by a third party. The additional inspections may be conducted by the Copermittee or a third party inspector. The Copermittees third party inspection program must include the following:

i. A description of facility types proposed to be inspected by third parties, including SIC codes;
ii. A third party inspector certification program;
iii. The inspection requirements described in section D.3.b.(3)(a);
iv. Inspection form templates for third party inspector use;
v. Photo documentation of potential storm water violations identified during the third party inspection;
vi. An annual Copermittee audit of random, representative sites that were inspected by a third party;
vii. An annual Copermittee audit of random, representative third party inspectors;
viii. Reporting to the Copermittee of identified significant potential violations within 24 hours of the third party inspection;
ix. Reporting to the Copermittee of all inspection findings within one week of the inspection being conducted; and
x. Copermittee follow-up and/or enforcement actions for identified potential storm water violations within 2 business days of the inspection or potential violation report receipt.

(e) Based upon site inspection findings, each Copermittee shall implement all follow-up actions and enforcement necessary to comply with this Order.

(f) To the extent that the Regional Board has conducted an inspection of an industrial site during a particular year, the requirement for the responsible Copermittee to inspect this facility during the same year will be satisfied.

(g) The Copermittees shall track the number of inspections for the inventoried industrial and commercial sites/sources throughout the reporting period to verify that the sites/sources are inspected at the minimum frequencies listed in sections D.3.b.(3)(b) and D.3.b.(3)(c).

(4) Regulation of Mobile Businesses

(a) Each Copermittee shall develop and implement a program to reduce the discharge of pollutants from mobile businesses to the MEP. Each Copermittee shall keep as part of their inventory (section D.3.b.(1) above), a listing of mobile businesses known to operate within its jurisdiction. The program shall include:

i. Development and implementation of minimum standards and BMPs to be required for each of the various types of mobile businesses.
ii. Development and implementation of an enforcement strategy which specifically addresses the unique characteristics of mobile businesses.
iii. Notification of those mobile businesses known to operate within the Copermittee's jurisdiction of the minimum standards and BMP requirements and local ordinances.

iv. Development and implementation of an outreach and education strategy.
v. Inspection of mobile businesses as needed.

(b) If they choose to, the Copermittees may cooperate in developing and implementing their programs for mobile businesses, including sharing of mobile business inventories, BMP requirements, enforcement action information, and education.

(5) Enforcement of Industrial and Commercial Sites/Sources

Each Copermittee shall enforce its storm water ordinance for all industrial and commercial sites/sources as necessary to maintain compliance with this Order. Copermittee ordinances or other regulatory mechanisms shall include appropriate sanctions to achieve compliance. Sanctions shall include the following or their equivalent: Non-monetary penalties, fines, bonding requirements, and/or permit denials for non-compliance.

(6) Reporting of Industrial Non-Filers

As part of each Annual Report, each Copermittee shall report a list of industrial sites, including the name, address, and SIC code, that may require coverage under the General Industrial Permit for which a NOI has not been filed.

c. RESIDENTIAL

Each Copermittee shall implement a residential program which meets the requirements of this section, reduces residential discharges of pollutants from the MS4 to the MEP, and prevents residential discharges from the MS4 from causing or contributing to a violation of water quality standards.

(1) Threat to Water Quality Prioritization

Each Copermittee shall identify high threat to water quality residential areas and activities. At a minimum, these shall include:

(a) Automobile repair, maintenance, washing, and parking;
(b) Home and garden care activities and product use (pesticides, herbicides, and fertilizers);
(c) Disposal of trash, pet waste, green waste, and household hazardous waste (e.g., paints, cleaning products);
(d) Any other residential source that the Copermittee determines may contribute a significant pollutant load to the MS4;
(e) Any residential areas tributary to a CWA section 303(d) impaired water body, where the residence generates pollutants for which the water body is impaired; and
(f) Any residential areas within or directly adjacent to or discharging directly to a coastal lagoon or other receiving waters within an environmentally sensitive area (as defined in Attachment C of this Order).

(2) BMP Implementation

(a) Each Copermittee shall designate minimum BMPs for high threat to water quality residential areas and activities. The designated minimum BMPs for high threat to water quality municipal areas and activities shall be area or activity specific.
(b) Each Copermittee shall encourage the use of pollution prevention methods by residents, where appropriate.
(c) Each Copermittee shall facilitate the proper management and disposal of used oil, toxic materials, and other household hazardous wastes. Such facilitation shall include educational activities, public information activities, and establishment of collection sites operated by the Copermittee or a private entity. Curbside collection of household hazardous wastes is encouraged.
(d) Each Copermittee shall implement, or require implementation of, the designated minimum BMPs and any additional measures necessary to comply with this Order for high threat to water quality residential areas and activities.
(e) Each Copermittee shall implement, or require implementation of, BMPs for residential areas and activities that have not been designated a high threat to water quality, as necessary.
(f) Each Copermittee shall implement, or require implementation of, any additional controls for residential areas and activities tributary to CWA section 303(d) impaired water body segments (where a residential area or activity generates pollutants for which the water body segment is impaired) as necessary to comply with this Order. Each Copermittee shall implement, or require implementation of, additional controls for residential areas within or directly adjacent to or discharging directly to coastal lagoons or other receiving waters within environmentally sensitive areas (as defined in section Attachment C of this Order) as necessary to comply with this Order.

(3) Enforcement of Residential Areas and Activities

Each Copermittee shall enforce its storm water ordinance for all residential areas and activities as necessary to maintain compliance with this Order.

(4) Evaluation of Oversight of Residential Areas and Activities

The Copermittees are encouraged to individually or collectively evaluate their methods used for oversight of residential areas and activities, including assessment of inspections of residential areas and activities. The evaluation should consider various oversight and inspection approaches to identify an effective and appropriate oversight and inspection approach for residential areas and activities.

(5) Regional Residential Education Program

Each Copermittee shall collaborate with the other Copermittees to develop and implement the Regional Residential Education Program required in section F.1 of this Order.

4. Illicit Discharge Detection and Elimination Component

Each Copermittee shall implement an Illicit Discharge Detection and Elimination program which meets the requirements of this section and actively seeks and eliminates illicit discharges and connections.

a. ILLICIT DISCHARGES AND CONNECTIONS

Each Copermittee shall implement a program to actively seek and eliminate illicit discharges and connections into its MS4. The program shall include utilization of appropriate municipal personnel to assist in identifying illicit discharges and connections during their daily activities. The program shall address all types of illicit discharges and connections excluding those non-storm water discharges not prohibited by the Copermittee in accordance with section B of this Order.

b. DEVELOP/MAINTAIN MS4 MAP

Each Copermittee shall develop and/or update its labeled map of its entire MS4 and the corresponding drainage areas within its jurisdiction. The use of a GIS is highly recommended. The accuracy of the MS4 map shall be confirmed during dry weather field screening and analytical monitoring and shall be updated at least annually.

c. DRY WEATHER FIELD SCREENING AND ANALYTICAL MONITORING

Each Copermittee shall conduct dry weather field screening and analytical monitoring of MS4 outfalls and other portions of its MS4 within its jurisdiction to detect illicit discharges and connections in accordance with Receiving Waters and Urban Runoff Monitoring and Reporting Program No. R9-2007-0001.

d. INVESTIGATION/INSPECTION AND FOLLOW-UP

(1) Each Copermittee shall investigate and inspect any portion of the MS4 that, based on visual observations, dry weather field screening and analytical monitoring results, or other appropriate information, indicates a reasonable potential for illicit discharges, illicit connections, or other sources of non-storm water (including non-prohibited discharge(s) identified in section B of this Order). Each Copermittee shall develop/update and utilize numeric criteria action levels (or other actions level criteria where appropriate) to determine when follow-up investigations will be performed.

(2) Within two business days of receiving dry weather field screening results that exceed action levels, the Copermittees shall either conduct an investigation to identify the source of the discharge or provide the rationale for why the discharge does not pose a threat to water quality and does not need further investigation. Within two business days, where applicable, of receiving analytical laboratory results that exceed action levels, the Copermittees shall either conduct an investigation to identify the source of the discharge or provide the rationale for why the discharge does not pose a threat to water quality and does not need further investigation. Obvious illicit discharges (i.e. color, odor, or significant exceedances of action levels) shall be investigated immediately.

e. ELIMINATION OF ILLICIT DISCHARGES AND CONNECTIONS

Each Copermittee shall take immediate action to eliminate all detected illicit discharges, illicit discharge sources, and illicit connections as soon as possible after detection. Elimination measures may include an escalating series of enforcement actions for those illicit discharges that are not a serious threat to public health or the environment. Illicit discharges that pose a serious threat to the public's health or the environment must be eliminated immediately.

f. ENFORCE ORDINANCES

Each Copermittee shall implement and enforce its ordinances, orders, or other legal authority to prevent illicit discharges and connections to its MS4. Each Copermittee shall also implement and enforce its ordinance, orders, or other legal authority to eliminate detected illicit discharges and connections to it MS4.

g. PREVENT AND RESPOND TO SEWAGE SPILLS (INCLUDING FROM PRIVATE LATERALS AND FAILING SEPTIC SYSTEMS) AND OTHER SPILLS

Each Copermittee shall prevent, respond to, contain and clean up all sewage and other spills that may discharge into its MS4 from any source (including private laterals and failing septic systems). Spill response teams shall prevent entry of spills into the MS4 and contamination of surface water, ground water and soil to the maximum extent practicable. Each Copermittee shall coordinate spill prevention, containment and response activities throughout all appropriate departments, programs and agencies so that maximum water quality protection is available at all times.

Each Copermittee shall develop and implement a mechanism whereby it is notified of all sewage spills from private laterals and failing septic systems into its MS4. Each Copermittee shall prevent, respond to, contain and clean up sewage from any such notification.

h. FACILITATE PUBLIC REPORTING OF ILLICIT DISCHARGES AND CONNECTIONS - PUBLIC HOTLINE

Each Copermittee shall promote, publicize and facilitate public reporting of illicit discharges or water quality impacts associated with discharges into or from MS4s. Each Copermittee shall facilitate public reporting through development and operation of a public hotline. Public hotlines can be Copermittee-specific or shared by Copermittees. All storm water hotlines shall be capable of receiving reports in both English and Spanish 24 hours per day / seven days per week. Copermittees shall respond to and resolve each reported incident in a timely manner. All reported incidents, and how each was resolved, shall be summarized in each Copermittee's individual JURMP Annual Report.

5. Education Component

Each Copermittee shall implement an education program using all media as appropriate to (1) measurably increase the knowledge of the target communities regarding MS4s, impacts of urban runoff on receiving waters, and potential BMP solutions for the target audience; and (2) to measurably change the behavior of target communities and thereby reduce pollutant releases to MS4s and the environment. At a minimum, the education

program shall meet the requirements of this section and address the following target communities:

- Municipal Departments and Personnel
- Construction Site Owners and Developers
- Industrial Owners and Operators
- Commercial Owners and Operators
- Residential Community, General Public, and School Children

a. GENERAL REQUIREMENTS

(1) Each Copermittee shall educate each target community on the following topics where appropriate:

Table 3. Education

Laws, Regulations, Permits, & Requirements	**Best Management Practices**
• Federal, state, and local water quality laws and regulations • Statewide General NPDES Permit for Storm Water Discharges Associated with Industrial Activities (Except Construction). • Statewide General NPDES Permit for Storm Water Discharges Associated with Construction Activities • Regional Board's General NPDES Permit for Ground Water Dewatering • Regional Board's 401 Water Quality Certification Program • Statewide General NPDES Utility Vault Permit • Requirements of local municipal permits and ordinances (e.g., storm water and grading ordinances and permits)	• Pollution prevention and safe alternatives • Good housekeeping (e.g., sweeping impervious surfaces instead of hosing) • Proper waste disposal (e.g., garbage, pet/animal waste, green waste, household hazardous materials, appliances, tires, furniture, vehicles, boat/recreational vehicle waste, catch basin/ MS4 cleanout waste) • Non-storm water disposal alternatives (e.g., all wash waters) • Methods to minimized the impact of land development and construction • Erosion prevention • Methods to reduce the impact of residential and charity car-washing • Preventive Maintenance • Equipment/vehicle maintenance and repair • Spill response, containment, and recovery • Recycling • BMP maintenance
General Urban Runoff Concepts	**Other Topics**
• Impacts of urban runoff on receiving waters • Distinction between MS4s and sanitary sewers • BMP types: facility or activity specific, LID, source control, and treatment control • Short- and long-term water quality impacts associated with urbanization (e.g., land-use decisions, development, construction) • Non-storm water discharge prohibitions • How to conduct a storm water inspections	• Public reporting mechanisms • Water quality awareness for Emergency/ First Responders • Illicit Discharge Detection and Elimination observations and follow-up during daily work activities • Potable water discharges to the MS4 • Dechlorination techniques • Hydrostatic testing • Integrated pest management • Benefits of native vegetation • Water conservation

	• Alternative materials and designs to maintain peak runoff values • Traffic reduction, alternative fuel use

(2) Copermittee educational programs shall emphasize underserved target audiences, high-risk behaviors, and "allowable" behaviors and discharges, including various ethnic and socioeconomic groups and mobile sources.

b. SPECIFIC REQUIREMENTS

(1) Municipal Departments and Personnel Education

(a) Municipal Development Planning – Each Copermittee shall implement an education program so that its planning and development review staffs (and Planning Boards and Elected Officials, if applicable) have an understanding of:

i. Federal, state, and local water quality laws and regulations applicable to Development Projects;
ii. The connection between land use decisions and short and long-term water quality impacts (i.e., impacts from land development and urbanization);
iii. How to integrate LID BMP requirements into the local regulatory program(s) and requirements; and
iv. Methods of minimizing impacts to receiving water quality resulting from development, including:
[1] Storm water management plan development and review;
[2] Methods to control downstream erosion impacts;
[3] Identification of pollutants of concern;
[4] LID BMP techniques;
[5] Source control BMPs; and
[6] Selection of the most effective treatment control BMPs for the pollutants of concern.

(b) Municipal Construction Activities – Each Copermittee shall implement an education program that includes annual training prior to the rainy season so that its construction, building, code enforcement, and grading review staffs, inspectors, and other responsible construction staff have, at a minimum, an understanding of the following topics, as appropriate for the target audience:

i. Federal, state, and local water quality laws and regulations applicable to construction and grading activities.
ii. The connection between construction activities and water quality impacts (i.e., impacts from land development and urbanization and impacts from construction material such as sediment).
iii. Proper implementation of erosion and sediment control and other BMPs to minimize the impacts to receiving water quality resulting from construction activities.
iv. The Copermittee's inspection, plan review, and enforcement policies and procedures to verify consistent application.
v. Current advancements in BMP technologies.

vi. SUSMP Requirements including treatment options, LID BMPs, source control, and applicable tracking mechanisms.

(c) Municipal Industrial/Commercial Activities - Each Copermittee shall train staff responsible for conducting storm water compliance inspections and enforcement of industrial and commercial facilities at least once a year. Training shall cover inspection and enforcement procedures, BMP implementation, and reviewing monitoring data.

(d) Municipal Other Activities – Each Copermittee shall implement an education program so that municipal personnel and contractors performing activities which generate pollutants have an understanding of the activity specific BMPs for each activity to be performed.

(2) New Development and Construction Education

As early in the planning and development process as possible and all through the permitting and construction process, each Copermittee shall implement a program to educate project applicants, developers, contractors, property owners, community planning groups, and other responsible parties. The education program shall provide an understanding of the topics listed in Sections D.5.b.(1)(a) and D.5.b.(1)(b) above, as appropriate for the audience being educated. The education program shall also educate project applicants, developers, contractors, property owners, and other responsible parties on the importance of educating all construction workers in the field about stormwater issues and BMPs though formal or informal training.

(3) Residential, General Public, and School Children Education

Each Copermittee shall collaboratively conduct or participate in development and implementation of a plan to educate residential, general public, and school children target communities. The plan shall evaluate use of mass media, mailers, door hangers, booths at public events, classroom education, field trips, hands-on experiences, or other educational methods.

6. Public Participation Component

Each Copermittee shall incorporate a mechanism for public participation in the updating, development, and implementation of the Jurisdictional Urban Runoff Management Program.

E. WATERSHED URBAN RUNOFF MANAGEMENT PROGRAM

1. Each Copermittee shall implement all requirements of section E of this Order no later than 365 days after adoption of this Order, unless otherwise specified in this Order. Prior to 365 days after adoption of this Order, each Copermittee shall collaborate with the other Copermittees within its Watershed Management Area(s) (WMA) to at a minimum implement its Watershed URMP document, as the document was developed and amended to comply with the requirements of Order No. 2001-01.

2. Each Copermittee shall collaborate with other Copermittees within its WMA(s) as shown in Table 4 below to develop and implement an updated Watershed Urban Runoff

Management Program for each watershed. Each updated Watershed Urban Runoff Management Program shall meet the requirements of section E of this Order, reduce the discharge of pollutants from the MS4 to the MEP, and prevent urban runoff discharges from the MS4 from causing or contributing to a violation of water quality standards. At a minimum, each Watershed Urban Runoff Management Program shall include the elements described below:

a. Lead Watershed Permittee Identification

Watershed Copermittees shall identify the Lead Watershed Permittee for their WMA. In the event that a Lead Watershed Permittee is not selected and identified by the Watershed Copermittees, by default the Copermittee identified in Table 4 as the Lead Watershed Permittee for that WMA shall be responsible for implementing the requirements of the Lead Watershed Permittee in that WMA. The Lead Watershed Copermittees shall serve as liaisons between the Copermittees and Regional Board, where appropriate.

b. Watershed Map

Watershed Copermittees shall develop and periodically update a map of the WMA to facilitate planning, assessment, and collaborative decision-making. As determined appropriate, the map shall include features such as receiving waters (including the Pacific Ocean); Clean Water Act section 303(d) impaired receiving waters; land uses, MS4s; major highways; jurisdictional boundaries; and inventoried commercial, industrial, and municipal sites.

c. Watershed Water Quality Assessment

Watershed Copermittees shall annually assess the water quality of receiving waters in their WMA. This assessment shall use applicable water quality data, reports, and analysis generated in accordance with the requirements of the Receiving Waters Monitoring and Reporting Program, as well as applicable information available from other public and private organizations.

The assessment and analysis shall annually identify the WMA's water quality problems that are partially or fully attributable to MS4 discharges. Identified water quality problems shall include CWA section 303(d) listings, persistent violations of water quality standards, toxicity, impacts to beneficial uses, and other pertinent conditions. From the list of water quality problems, the high priority water quality problems of the WMA shall be identified, which shall include those water quality problems which most significantly exceed or impact water quality standards (water quality objectives and beneficial uses).

The assessment shall include annual identification of the likely sources of the WMA's high priority water quality problems.

d. Watershed-based Land Use Planning

The Watershed Copermittees shall develop, implement, and modify, as necessary, a program for encouraging collaborative, watershed-based, land use planning in their jurisdictional planning departments.

e. Watershed Strategy

Watershed Copermittees shall develop and implement a collective watershed strategy to abate the sources and reduce the discharge of pollutants causing the high priority water quality problems of the WMA. The strategy shall guide Watershed Copermittee selection and implementation of Watershed Activities, so that the Watershed Activities selected and implemented are appropriate for each Watershed Copermittee's contribution to the WMA's high priority water quality problems.

f. Watershed Activities

(1) The Watershed Copermittees shall identify and implement Watershed Activities that address the high priority water quality problems in the WMA. Watershed Activities shall include both Watershed Water Quality Activities and Watershed Education Activities. These activities may be implemented individually or collectively, and may be implemented at the regional, watershed, or jurisdictional level.

(a) Watershed Water Quality Activities are activities other than education that address the high priority water quality problems in the WMA. A Watershed Water Quality Activity implemented on a jurisdictional basis must be organized and implemented to target a watershed's high priority water quality problems or must exceed the baseline jurisdictional requirements of section D of this Order.
(b) Watershed Education Activities are outreach and training activities that address high priority water quality problems in the WMA.

(2) A Watershed Activities List shall be submitted with each updated WURMP and updated annually thereafter. The Watershed Activities List shall include both Watershed Water Quality Activities and Watershed Education Activities, along with a description of how each activity was selected, and how all of the activities on the list will collectively abate sources and reduce pollutant discharges causing the identified high priority water quality problems in the WMA.

(3) Each activity on the Watershed Activities List shall include the following information:

(a) A description of the activity;
(b) A time schedule for implementation of the activity, including key milestones;
(c) An identification of the specific responsibilities of Watershed Copermittees in completing the activity;
(d) A description of how the activity will address the identified high priority water quality problem(s) of the watershed;
(e) A description of how the activity is consistent with the collective watershed strategy;
(f) A description of the expected benefits of implementing the activity; and
(g) A description of how implementation effectiveness will be measured.

(4) Each Watershed Copermittee shall implement identified Watershed Activities pursuant to established schedules. For each Permit year, no less than two Watershed Water Quality Activities and two Watershed Education Activities shall be in an active implementation phase. A Watershed Water Quality Activity

is in an active implementation phase when significant pollutant load reductions, source abatement, or other quantifiable benefits to discharge or receiving water quality can reasonably be established in relation to the watershed's high priority water quality problem(s). Watershed Water Quality Activities that are capital projects are in active implementation for the first year of implementation only. A Watershed Education Activity is in an active implementation phase when changes in attitudes, knowledge, awareness, or behavior can reasonably be established in target audiences.

g. Copermittee Collaboration

Watershed Copermittees shall collaborate to develop and implement the Watershed Urban Runoff Management Programs. Watershed Copermittee collaboration shall include frequent regularly scheduled meetings.

h. Public Participation

Watershed Copermittees shall implement a watershed-specific public participation mechanism within each watershed. The mechanism shall encourage participation from other organizations within the watershed (such as the Department of Defense, Caltrans, lagoon foundations, etc.)

i. WURMP Review and Updates

Each WURMP shall be reviewed annually to identify needed modifications and improvements. Pursuant to the requirements of Section I.2.b of this Order the Watershed Copermittees shall develop and implement a plan and schedule to address the identified modifications and improvements. All updates to the WURMP shall be documented in the Watershed Urban Runoff Management Program Annual Reports. Individual Watershed Copermittees shall also review and modify their jurisdictional activities and JURMPs as necessary so that they are consistent with the requirements of the WURMP.

Table 4. Watershed Management Areas and Watershed Copermittees

RESPONSIBLE WATERSHED COPERMITTEE(S)	WATERSHED MANAGEMENT AREA	HYDROLOGIC UNIT OR AREA	MAJOR RECEIVING WATER BODIES
1. County of San Diego	Santa Margarita River	Santa Margarita HU (902.00)	Santa Margarita River and Estuary, Pacific Ocean
2. City of Oceanside 3. City of Vista 4. County of San Diego	San Luis Rey River	San Luis Rey HU (903.00)	San Luis Rey River and Estuary, Pacific Ocean
1. City of Carlsbad **2. City of Encinitas** 3. City of Escondido 4. City of Oceanside 5. City of San Marcos 6. City of Solana Beach 7. City of Vista 8. County of San Diego	Carlsbad	Carlsbad HU (904.00)	Batiquitos Lagoon San Elijo Lagoon Agua Hedionda Lagoon Buena Vista Lagoon and Tributary Streams Pacific Ocean
1. City of Del Mar 2. **City of Escondido** 3. City of Poway 4. City of San Diego 5. City of Solana Beach 6. County of San Diego	San Dieguito River	San Dieguito HU (905.00)	San Dieguito River and Estuary Pacific Ocean

RESPONSIBLE WATERSHED COPERMITTEE(S)	WATERSHED MANAGEMENT AREA	HYDROLOGIC UNIT OR AREA	MAJOR RECEIVING WATER BODIES
1. City of Del Mar **2. City of Poway** 3. City of San Diego 4. County of San Diego	Peñasquitos	Miramar Reservoir HA (906.10) Poway HA (906.20)	Los Peñasquitos Creek Los Peñasquitos Lagoon Pacific Ocean
1. City of San Diego	Mission Bay	Scripps HA (906.30) Miramar HA(906.40) Tecolote HA (906.50)	Mission Bay Pacific Ocean
1. City of El Cajon 2. City of La Mesa 3. City of San Diego 4. City of Santee 5. County of San Diego	San Diego River	San Diego HU (907.00)	San Diego River Pacific Ocean
1. City of Chula Vista 2. City of Coronado 3. City of Imperial Beach 4. City of La Mesa 5. City of Lemon Grove 6. City of National City 7. City of San Diego 8. County of San Diego **9. San Diego Unified Port District** 10. San Diego County Regional Airport Authority	San Diego Bay	Pueblo San Diego HU (908.00) Sweetwater HU (909.00) Otay HU (910.00)	San Diego Bay Sweetwater River Otay River Pacific Ocean
1. City of Imperial Beach 2. City of San Diego **3. County of San Diego**	Tijuana River	Tijuana (911.00)	Tijuana River and Estuary Pacific Ocean

- The Lead Watershed Permittee for each watershed is highlighted

F. REGIONAL URBAN RUNOFF MANAGEMENT PROGRAM

The Copermittees shall implement all requirements of section F of this Order no later than 365 days after adoption of this Order, unless otherwise specified in this Order.

Each Copermittee shall collaborate with the other Copermittees to develop, implement, and update as necessary a Regional Urban Runoff Management Program. The Regional Urban Runoff Management Program shall meet the requirements of section F of this Order, reduce the discharge of pollutants from the MS4 to the MEP, and prevent urban runoff discharges from the MS4 from causing or contributing to a violation of water quality standards. The Regional Urban Runoff Management Program shall, at a minimum:

1. Develop and implement a Regional Residential Education Program. The program shall include:
   a. Pollutant specific education which focuses educational efforts on bacteria, nutrients, sediment, pesticides, and trash. If a different pollutant is determined to be more critical for the education program, the pollutant can be substituted for one of these pollutants.
   b. Education efforts focused on the specific residential sources of the pollutants listed in section F.1.a.
2. Develop the standardized fiscal analysis method required in section G of this Order.
3. Facilitate the assessment of the effectiveness of jurisdictional, watershed, and regional programs.

As options, the Regional Urban Runoff Management Program may:

1. Develop and implement urban runoff management activities on a regional level, as determined to be necessary by the Copermittees.

2. Develop and implement a strategy to integrate management, implementation, and reporting of jurisdictional, watershed, and regional activities, as determined to be necessary by the Copermittees. Any such integration shall assure compliance with the jurisdictional requirements of section D and the watershed requirements of section E.
3. Facilitate TMDL management and implementation, as determined to be necessary by the Copermittees.
4. Facilitate development of strategies for implementation of activities on a watershed level, as determined to be necessary by the Copermittees.

G. FISCAL ANALYSIS

1. Each Copermittee shall secure the resources necessary to meet all requirements of this Order.

2. As part of the Regional Urban Runoff Management Program, the Copermittees shall collectively develop a standardized method and format for annually conducting and reporting fiscal analyses of their urban runoff management programs in their entirety (including jurisdictional, watershed, and regional activities). This standardized method shall:

   a. Identify the various categories of expenditures attributable to the urban runoff management programs, including a description of the specific items to be accounted for in each category of expenditures.
   b. Identify expenditures that contribute to multiple programs or were in existence prior to implementation of the urban runoff management program.
   c. Identify a metric or metrics to be used to report program component and total program expenditures.

3. Each Copermittee shall conduct an annual fiscal analysis. Starting January 31, 2010, the annual fiscal analysis shall be conducted consistent with the standardized fiscal analysis method included in the January 31, 2009 Regional Urban Runoff Management Program Annual Report. The annual fiscal analysis shall be conducted and reported on as part of each Copermittee's Jurisdictional Urban Runoff Management Program Annual Reports. For convenience, the fiscal analysis included in the Jurisdictional Urban Runoff Management Program Annual Reports shall address the Copermittee's urban runoff management programs in their entirety, including jurisdictional, watershed, and regional activities. The fiscal analysis shall provide the Copermittee's urban runoff management program budget for the current reporting period. The fiscal analysis shall include a description of the source(s) of the funds that are proposed to be used to meet the necessary expenditures, including legal restrictions on the use of such funds.

H. TOTAL MAXIMUM DAILY LOADS

1. Chollas Creek Diazinon TMDL Water Quality Based Effluent Limits (WQBELs)

   a. The Copermittees in the Chollas Creek watershed shall implement BMPs capable of achieving the interim and final diazinon Waste Load Allocation (WLA) concentration in the storm water discharge in Chollas Creek listed in Table 5.

Table 5. Chollas Creek Diazinon Schedule

Calendar Year	Year	Waste Load Allocation	Interim TMDL Numeric Target	% Reduction
2004	1	0.460 µg/L	0.5 µg/L	0
2005	2	0.460 µg/L	0.5 µg/L	0
2006	3	0.460 µg/L	0.5 µg/L	0
2007	4	0.414 µg/L	0.45 µg/L	10
2008	5	0.322 µg/L	0.35 µg/L	20
2009	6	0.184 µg/L	0.20 µg/L	30
2010	7	0.045 µg/L	0.05 µg/L	30

b. The Copermittees in the Chollas Creek watershed shall not cause or contribute to the violation of the Interim TMDL Numeric Targets in Chollas Creek as listed in Table 5. If the Interim TMDL Numeric Target is violated in Chollas Creek in more than one sample in any three consecutive years, the Copermittees shall submit a report that either 1) documents compliance with the WLA through additional sampling of the urban runoff discharge or 2) demonstrates, using modeling or other technical or scientific basis, the effectiveness of additional BMPs that will be implemented to achieve the WLA. The report may be incorporated into the Watershed Urban Runoff Management Program Annual Report unless the Regional Board directs an earlier submittal. The report shall include an implementation schedule.

c. The Copermittees in the Chollas Creek watershed shall 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, August 14, 2002," including subsequent modifications, in order to achieve the WLA listed in Table 5.

2. Shelter Island Yacht Basin WQBELs

a. The Copermittees in the Shelter Island Yacht Basin watershed shall implement BMPs to maintain a total annual copper discharge load of less than or equal to 30 kg copper / year.

b. The Copermittees in the Shelter Island Yacht Basin watershed shall implement, at a minimum, the BMPs included in the Copermittees' Jurisdictional Urban Runoff Management Plan, including subsequent modifications, which address the discharge of copper to achieve the annual copper load in Section H.2.a above.

I. PROGRAM EFFECTIVENESS ASSESSMENT

1. Jurisdictional

a. As part of its Jurisdictional Urban Runoff Management Program, each Copermittee shall annually assess the effectiveness of its Jurisdictional Urban Runoff Management Program implementation. At a minimum, the annual effectiveness assessment shall:

(1) Specifically assess the effectiveness of each of the following:

(a) Each significant jurisdictional activity/BMP or type of jurisdictional activity/BMP implemented;
(b) Implementation of each major component of the Jurisdictional Urban Runoff Management Program (Development Planning, Construction, Municipal, Industrial/Commercial, Residential, Illicit Discharge Detection and Elimination, and Education); and
(c) Implementation of the Jurisdictional Urban Runoff Management Program as a whole.

(2) Identify and utilize measurable targeted outcomes, assessment measures, and assessment methods for each of the items listed in section I.1.a.(1) above.

(3) Utilize outcome levels 1-6[9] to assess the effectiveness of each of the items listed in section I.1.a.(1) above, where applicable and feasible.

(4) Utilize monitoring data and analysis from the Receiving Waters Monitoring Program to assess the effectiveness each of the items listed in section I.1.a.(1) above, where applicable and feasible.

(5) Utilize Implementation Assessment, Water Quality Assessment, and Integrated Assessment, where applicable and feasible.[10]

b. Based on the results of the effectiveness assessment, each Copermittee shall annually review its jurisdictional activities or BMPs to identify modifications and improvements needed to maximize Jurisdictional Urban Runoff Management Program effectiveness, as necessary to achieve compliance with section A of this Order. The Copermittees shall develop and implement a plan and schedule to address the identified modifications and improvements. Jurisdictional activities/BMPs that are ineffective or less effective than other comparable jurisdictional activities/BMPs shall be replaced or improved upon by implementation of more effective jurisdictional activities/BMPs. Where monitoring data exhibits persistent water quality problems that are caused or contributed to by MS4 discharges, jurisdictional activities or BMPs applicable to the water quality problems shall be modified and improved to correct the water quality problems.

c. As part of its Jurisdictional Urban Runoff Management Program Annual Reports, each Copermittee shall report on its Jurisdictional Urban Runoff Management Program effectiveness assessment as implemented under each of the requirements of sections I.1.a and I.1.b above.

2. Watershed

a. As part of its Watershed Urban Runoff Management Program, each watershed group of Copermittees (as identified in Table 4) shall annually assess the effectiveness of its Watershed Urban Runoff Management Program implementation. At a minimum, the annual effectiveness assessment shall:

(1) Specifically assess the effectiveness of each of the following:

[9] Effectiveness assessment outcome levels are defined in Attachment C of this Order.
[10] Implementation Assessment, Water Quality Assessment, and Integrated Assessment are defined in Attachment C of this Order.

(a) Each Watershed Water Quality Activity implemented;
(b) Each Watershed Education Activity implemented; and
(c) Implementation of the Watershed Urban Runoff Management Program as a whole.

(2) Identify and utilize measurable targeted outcomes, assessment measures, and assessment methods for each of the items listed in section I.2.a.(1) above.

(3) Utilize outcome levels 1-6 to assess the effectiveness of each of the items listed in sections I.2.a.(1)(a) and I.2.a.(1)(b) above, where applicable and feasible.

(4) Utilize outcome levels 1-4 to assess the effectiveness of implementation of the Watershed Urban Runoff Management Program as a whole, where applicable and feasible.

(5) Utilize outcome levels 5 and 6 to qualitatively assess the effectiveness of implementation of the Watershed Urban Runoff Management Program as a whole, focusing on the high priority water quality problem(s) of the watershed. These assessments shall attempt to exhibit the impact of Watershed Urban Runoff Management Program implementation on the high priority water quality problem(s) within the watershed.

(6) Utilize monitoring data and analysis from the Receiving Waters Monitoring Program to assess the effectiveness each of the items listed in section I.2.a.(1) above, where applicable and feasible.

(7) Utilize Implementation Assessment, Water Quality Assessment, and Integrated Assessment, where applicable and feasible.

b. Based on the results of the effectiveness assessment, the watershed Copermittees shall annually review their Watershed Water Quality Activities, Watershed Education Activities, and other aspects of the Watershed Urban Runoff Management Program to identify modifications and improvements needed to maximize Watershed Urban Runoff Management Program effectiveness, as necessary to achieve compliance with section A of this Order. The Copermittees shall develop and implement a plan and schedule to address the identified modifications and improvements. Watershed Water Quality Activities/Watershed Education Activities that are ineffective or less effective than other comparable Watershed Water Quality Activities/Watershed Education Activities shall be replaced or improved upon by implementation of more effective Watershed Water Quality Activities/Watershed Education Activities. Where monitoring data exhibits persistent water quality problems that are caused or contributed to by MS4 discharges, Watershed Water Quality Activities and Watershed Education Activities applicable to the water quality problems shall be modified and improved to correct the water quality problems.

c. As part of its Watershed Urban Runoff Management Program Annual Reports, each watershed group of Copermittees (as identified in Table 4) shall report on its Watershed Urban Runoff Management Program effectiveness assessment as implemented under each of the requirements of section I.2.a and I.2.b above.

3. Regional

a. As part of the Regional Urban Runoff Management Program, the Copermittees shall annually assess the effectiveness of Regional Urban Runoff Management Program implementation. At a minimum, the annual effectiveness assessment shall:

(1) Specifically assess the effectiveness of each of the following:

(a) Each regional activity/BMP or type of regional activity/BMP implemented, including regional residential education activities; and
(b) The Regional Urban Runoff Management Program as a whole.

(2) Identify and utilize measurable targeted outcomes, assessment measures, and assessment methods for each of the items listed in section I.3.a.(1) above.

(3) Utilize outcome levels 1-6 to assess the effectiveness of each of the items listed in sections I.3.a.(1) above, where applicable and feasible.

(4) Utilize monitoring data and analysis from the Receiving Waters Monitoring Program to assess the effectiveness each of the items listed in section I.3.a.(1) above, where applicable and feasible.

(5) Utilize Implementation Assessment, Water Quality Assessment, and Integrated Assessment, where applicable and feasible.

(6) Include evaluation of whether the Copermittees' jurisdictional, watershed, and regional effectiveness assessments are meeting the following objectives:

(a) Assessment of watershed health and identification of water quality issues and concerns.
(b) Evaluation of the degree to which existing source management priorities are properly targeted to, and effective in addressing, water quality issues and concerns.
(c) Evaluation of the need to address additional pollutant sources not already included in Copermittee programs.
(d) Assessment of progress in implementing Copermittee programs and activities.
(e) Assessment of the effectiveness of Copermittee activities in addressing priority constituents and sources.
(f) Assessment of changes in discharge and receiving water quality.
(g) Assessment of the relationship of program implementation to changes in pollutant loading, discharge quality, and receiving water quality.
(h) Identification of changes necessary to improve Copermittee programs, activities, and effectiveness assessment methods and strategies.

b. Based on the results of the effectiveness assessment, the Copermittees shall annually review their regional activities and other aspects of the Regional Urban Runoff Management Program to identify modifications and improvements needed maximize Regional Urban Runoff Management Program effectiveness, as necessary to achieve compliance with section A of this Order. The Copermittees shall develop and implement a plan and schedule to address the identified modifications and improvements. Regional activities that are ineffective or less effective than other

comparable regional activities shall be replaced or improved upon by implementation of more effective regional activities. Where monitoring data exhibits persistent water quality problems that are caused or contributed to by MS4 discharges, regional activities applicable to the water quality problems shall be modified and improved to correct the water quality problems.

c. Based on the results of the Copermittees' evaluation of their effectiveness assessments, the Copermittees shall modify their effectiveness assessment methods to improve their ability to accurately assess the effectiveness of their urban runoff management programs.

d. As part of its Regional Urban Runoff Management Program Annual Reports, the Copermittees shall report on its Regional Urban Runoff Management Program effectiveness assessment as implemented under each of the requirements of sections I.3.a, I.3.b, and I.3.c above.

4. TMDL BMP Implementation Plan

a. For each TMDL in a watershed, the Copermittees subject to the TMDL within the watershed shall annually assess the effectiveness of its TMDL BMP Implementation Plan or equivalent plan.[11] At a minimum, the annual effectiveness assessment shall:

(1) Specifically assess the effectiveness of each of the following:

(a) Each activity/BMP or type of activity/BMP implemented; and
(b) Implementation of the TMDL BMP Implementation Plan or equivalent plan as a whole.

(2) Identify and utilize measurable targeted outcomes, assessment measures, and assessment methods for each of the items listed in sections I.4.a.(1) above.

(3) Utilize outcome levels 1-6 to assess the effectiveness of each of the items listed in section I.4.a.(1)(a) above, where applicable and feasible.

(4) Utilize outcome levels 1-4 to assess the effectiveness of implementation of the TMDL BMP Implementation Plan or equivalent plan as a whole, where applicable and feasible.

(5) Utilize outcome levels 5 and 6 to qualitatively assess the effectiveness of the TMDL BMP Implementation Plan or equivalent plan as a whole. These assessments shall attempt to exhibit the effects of the TMDL BMP Implementation Plan or equivalent plan on the impairment that is targeted.

b. Based on the results of the effectiveness assessment, the Copermittees subject to the TMDL shall modify their BMPs and other aspects of the TMDL BMP Implementation Plan or equivalent plan in order to maximize TMDL BMP Implementation Plan or equivalent plan effectiveness. BMPs that are ineffective or less effective than other comparable BMPs shall be replaced or improved upon by implementation of more effective BMPs. Where monitoring data exhibits persistent

[11] This requirement applies to those TMDLs where a TMDL BMP Implementation Plan or equivalent plan has been developed and submitted to the Regional Board.

water quality problems that are caused or contributed to by MS4 discharges, BMPs applicable to the water quality problems shall be modified and improved to correct the water quality problems.

c. As part of its Watershed Urban Runoff Management Program Annual Reports, each group of Copermittees subject to a TMDL shall report on any TMDL BMP Implementation Plan or equivalent plan effectiveness assessments as implemented under each of the requirements of sections I.4.a and I.4.b above.

5. Long-term Effectiveness Assessment

a. Each Copermittee shall collaborate with the other Copermittees to develop a Long-term Effectiveness Assessment (LTEA), which shall build on the results of the Copermittees' August 2005 Baseline LTEA. The LTEA shall be submitted by the Principal Permittee to the Regional Board no later than 210 days in advance of the expiration of this Order.

b. The LTEA shall be designed to address each of the objectives listed in section I.3.a.(6) of this Order, and to serve as a basis for the Copermittees' Report of Waste Discharge for the next permit cycle.

c. The LTEA shall address outcome levels 1-6, and shall specifically include an evaluation of program implementation to changes in water quality (outcome levels 5 and 6).

d. The LTEA shall assess the effectiveness of the Receiving Waters Monitoring Program in meeting its objectives and its ability to answer the five core management questions. This shall include assessment of the frequency of monitoring conducted through the use of power analysis and other pertinent statistical methods. The power analysis shall identify the frequency and intensity of sampling needed to identify a 10% reduction in the concentration of constituents causing the high priority water quality problems within each watershed over the next permit term with 80% confidence.

e. The LTEA shall address the jurisdictional, watershed, and regional programs, with an emphasis on watershed assessment.

J. REPORTING

1. Urban Runoff Management Plans

a. JURISDICTIONAL URBAN RUNOFF MANAGEMENT PLANS

(1) Copermittees - The written account of the overall program to be conducted by each Copermittee to meet the jurisdictional requirements of section D of this Order is referred to as the Jurisdictional Urban Runoff Management Plan (JURMP). Each Copermittee shall revise and update its JURMP so that it describes all activities the Copermittee will undertake to implement the requirements of each component of Jurisdictional Urban Runoff Management Program section D of this Order. Each Copermittee shall submit its updated and revised JURMP to the Principal Permittee by the date specified by the Principal

Permittee.

(2) Principal Permittee –The Principal Permittee shall be responsible for collecting and assembling the individual JURMPs which cover the activities conducted by each individual Copermittee. The Principal Permittee shall submit the JURMPs to the Regional Board 365 days after adoption of this Order.

(3) At a minimum, each Copermittee's JURMP shall be updated and revised to contain the following information:

(a) Non-Storm Water Discharges
i. Identification of non-storm water discharge categories identified as a source of pollutants to waters of the U.S.
ii. A description of whether non-storm water discharge categories identified under section (a)i above will be prohibited or required to implement appropriate control measures to reduce the discharge of pollutants to the MEP.
iii. Identification of any control measures to be required and implemented for non-storm water discharge categories identified under section (a)i above.
iv. A description of a program to reduce pollutants from non-emergency fire fighting flows identified by the Copermittee to be significant sources of pollutants.

(b) Administrative and Legal Procedures
i. Certified statement by the chief legal counsel that the Copermittee has adequate legal authority to implement and enforce each of the requirements contained in 40 CFR 122.26(d)(2)(i)(A-F) and this Order.
ii. Identification of all departments within the jurisdiction that conduct urban runoff related activities, and their roles and responsibilities under the Order. Include an up-to-date organizational chart specifying these departments and key personnel.
iii. Updated urban runoff related ordinances, with explanations of how they are enforceable.
iv. Identification of the local administrative and legal procedures available to mandate compliance with urban runoff related ordinances and therefore with the conditions of the Order.
v. Description of how urban runoff related ordinances are implemented and appealed.
vi. Description of whether the municipality can issue administrative orders and injunctions or if it must go through the court system for enforcement actions.

(c) Development Planning
i. A description of the water quality and watershed protection principles that have been or will be included in the Copermittee's General Plan, and a time schedule for when modifications are planned, if applicable.
ii. A description of the Copermittee's current environmental review process and how it addresses impacts to water quality and appropriate mitigation measures. If the Copermittee plans to modify the process during the permit term, a time schedule for modifications shall be included.

iii. A description of the development project approval process and requirements.
iv. An updated SUSMP document that meets the applicable requirements specified in sections D.1.d and D.1.g(6), including a description of LID BMP requirements to be used prior to the Model SUSMP update. The updated SUSMP may be submitted under separate cover as an attachment to the JURMP.
v. A description of the database to be used to track and inventory approved treatment control BMPs and treatment control BMP maintenance.
vi. A completed watershed-based inventory of approved treatment control BMPs.
vii. A description of the program to be implemented to verify approved treatment control BMPs are operating effectively and have been adequately maintained, including information on treatment control BMP inventory, prioritization, inspection, and annual verification.
viii. A description of inspections that will be conducted to verify BMPs have been constructed according to requirements.
ix. A description of collaboration efforts to be conducted to develop the HMP.
x. A description of enforcement mechanisms and how they will be used.

(d) Construction
i. Updated grading and other applicable ordinances.
ii. A description of the construction and grading approval processes.
iii. Updated construction and grading project requirements.
iv. A completed watershed-based inventory of all construction sites.
v. A description of steps that will be taken to maintain and update monthly a watershed-based inventory of all construction sites.
vi. A list and description of the minimum BMPs that will be implemented, or required to be implemented, including pollution prevention.
vii. A description of the maximum disturbed area allowed for grading before either temporary or permanent erosion controls are implemented.
viii. A description of construction site conditions where advanced treatment will be required.
ix. A description of the steps that will be taken to require and verify the implementation of the designated BMPs at all construction sites.
x. A description of planned inspection frequencies.
xi. A description of inspection procedures.
xii. A description of steps that will be taken to track construction site inspections to verify that all construction sites are inspected at the minimum frequencies required.
xiii. A description of available enforcement mechanisms, under what conditions each will be used, and how they will escalate.
xiv. A description of notification procedures for non-compliant sites.

(e) Municipal
i. A completed inventory of all municipal facilities and activities.
ii. A description of which BMPs will be implemented, or required to be implemented, for municipal facilities and activities, including pollution prevention.
iii. A description of which BMPs will be implemented, or required to be implemented, for special events.

iv. A description of steps that will be taken to require and verify the implementation of designated BMPs at municipal facilities and activities.
v. A description of MS4 and MS4 facility inspection and maintenance activities and schedules.
vi. A description of the management strategy and BMPs to be implemented for pesticides, herbicides, and fertilizer use.
vii. A description of street and parking facility sweeping activities and schedules.
viii. A description of controls and measures to be implemented to prevent and eliminate infiltration of seepage from sanitary sewers to MS4s.
ix. A description of inspection frequencies and procedures.
x. A description of enforcement mechanisms and how they will be used.

(f) Industrial and Commercial
i. A completed and prioritized inventory of all industrial and commercial sites/sources that could contribute a significant pollutant load to the MS4.
ii. A list of minimum BMPs that will be implemented, or required to be implemented, for each facility type or pollutant-generating activity, including pollution prevention.
iii. A description of the steps that will be taken to require and verify the implementation of designated BMPs, including notification efforts.
iv. Identification of high priority sites/sources and sites/sources to be inspected during the first year of implementation.
v. A description of the steps taken to identify sites/sources to be inspected during the first year of implementation, including rationale for their selection.
vi. A description of steps that will be taken to identify sites/sources to be inspected in subsequent years.
vii. A description of inspection procedures.
viii. A description of any third party inspection program to be implemented.
ix. A description of the program to be implemented to regulate mobile businesses, including notification of BMP requirements and local ordinances.
x. A description of enforcement mechanisms and how they will be used.
xi. A description of steps that will be taken to identify non-filers and notify the Regional Board of non-filers.

(g) Residential
i. A list of residential areas and activities that have been identified as high priority.
ii. A list of minimum BMPs that will be implemented, or required to be implemented, for high priority residential activities.
iii. A description of which pollution prevention methods will be encouraged for implementation, and the steps that will be taken to encourage implementation.
iv. A description of the steps that will be taken to require and verify the implementation of prescribed BMPs for high priority residential activities.
v. A description of efforts to facilitate proper disposal of used oil and other toxic materials.

vi. A description of efforts to evaluate methods used for oversight of residential areas and activities.
vii. A description of enforcement mechanisms and how they will be used.

(h) Illicit Discharge Detection and Elimination
i. A description of the program to actively seek and eliminate illicit discharges and illicit connections.
ii. An updated MS4 map, including locations of the MS4, dry weather field screening and analytical monitoring sites, and watersheds.
iii. A description of dry weather field screening and analytical monitoring to be conducted (including procedures) which addresses all requirements included in sections B.1-4 of Receiving Waters Monitoring and Reporting Program No. R9-2006-0011.
iv. A description of investigation and inspection procedures to follow up on dry weather monitoring results or other information which indicate potential for illicit discharges and illicit connections.
v. A description of procedures to eliminate detected illicit discharges and illicit connections.
vi. A description of enforcement mechanisms and how they will be used.
vii. A description of the mechanism to receive notification of spills.
viii. A description of measures to prevent, respond to, contain, and clean up all sewage and other spills.
ix. A description of efforts to facilitate public reporting of illicit discharges and connections, including a public hotline.

(i) Education
i. A description of the content, form, and frequency of education efforts for each target community.
ii. A description of steps to be taken to educate underserved target audiences, high-risk behaviors, and "allowable" behaviors and discharges, including various ethnic and socioeconomic groups and mobile sources.
iii. A description of the content, form, and frequency of education efforts targeting municipal staff working on development planning, construction, municipal, industrial/commercial, and other aspects of the Jurisdictional Urban Runoff Management Program.
iv. A description of the content, form, and frequency of education efforts targeting new development and construction target communities.
v. A description of the content, form, and frequency of jurisdictional education efforts for the residential, general public, and school children target communities.

(j) Public Participation
i. A description of the steps that will be taken to include public participation in the development and implementation of each Copermittee's Jurisdictional Urban Runoff Management Program.

(k) Fiscal Analysis
i. A description of the fiscal analysis to be conducted annually, as required by section G of this Order.

(l) Program Effectiveness Assessment

i. A description of steps that will be taken to annually conduct program effectiveness assessments in compliance with section I.1 of the Order.

ii. Identify measurable targeted outcomes, assessment measures, and assessment methods to be used to assess the effectiveness of: (1) Each significant jurisdictional activity or BMP to be implemented; (2) Implementation of each major component of the Jurisdictional Urban Runoff Management Program; and (3) Implementation of the Jurisdictional Urban Runoff Management Program as a whole.

iii. Identify which of the outcome levels 1-6 will be utilized to assess the effectiveness of each of the items listed in sections J.1.a.(3)(l)ii(1-3). Where an outcome level is determined to not be applicable or feasible for an item listed in sections J.1.a.(3)(l)ii(1-3), the Copermittee shall provide a discussion exhibiting inapplicability or infeasibility.

iv. A description of the steps that will be taken to utilize monitoring data to assess the effectiveness of each of the items listed in sections J.1.a.(3)(l)ii(1-3).

v. A description of the steps that will be taken to improve the Copermittee's ability to assess program effectiveness using measurable targeted outcomes, assessment measures, assessment methods, and outcome levels 1-6. Include a time schedule for when improvement will occur.

vi. A description of the steps that will be taken to identify aspects of the Copermittee's Jurisdictional Urban Runoff Management Program that will be changed, based on the results of the effectiveness assessment.

(m) JURMP Modification

i. Identification of the location in the JURMP of any changes made to the JURMP in order to meet the requirements of Order No. R9-2007-0001.

b. WATERSHED URBAN RUNOFF MANAGEMENT PLANS

(1) Copermittees - The written account of the program conducted by each watershed group of Copermittees is referred to as the Watershed Urban Runoff Management Plan (WURMP). The Copermittees within each watershed shall be responsible for updating and revising each WURMP, as specified in Table 4 above. Each WURMP shall be updated and revised to describe all activities the watershed Copermittees will undertake to implement the Watershed Urban Runoff Management Program requirements of section E of this Order.

(2) Lead Watershed Permittee - Each Lead Watershed Permittee shall be responsible for producing its respective WURMP, as well as for coordination and meetings amongst all member watershed Copermittees. Each Lead Watershed Permittee is further responsible for the submittal of the WURMP to the Principal Permittee by the date specified by the Principal Permittee.

(3) Principal Permittee – The Principal Permittee shall assemble and submit the WURMPs to the Regional Board 365 days after adoption of this Order.

(4) Each WURMP shall include:

(a) Identification of the Lead Watershed Permittee for the watershed.
(b) An updated watershed map.

(c) Identification and description of all applicable water quality data, reports, analyses, and other information to be used to assess receiving water quality.
(d) Assessment and analysis of the watershed's water quality data, reports, analyses, and other information, including identification and prioritization of the watershed's water quality problems. Water quality problems and high priority water quality problems shall be identified.
(e) Identification of the likely sources, pollutant discharges, and/or other factors causing the high priority water quality problems within the watershed.
(f) A description of the program to be implemented to encourage collaborative, watershed-based, land-use planning.
(g) A description of the strategy to be used to guide Copermittee implementation of Watershed Water Quality Activities and Watershed Education Activities, including criteria for evaluating and identifying effective activities.
(h) A list of potential Watershed Water Quality Activities, including a description of each activity and its location(s).
(i) Identification and description of the Watershed Water Quality Activities to be implemented by each Copermittee for the first year of implementation, including justification for why the activities were chosen and a description of how the activities are expected to reduce discharged pollutant loads, abate pollutant sources, or result in other quantifiable benefits to discharge or receiving water quality, in relation to the watershed's high priority water quality problem(s). Plans for activity implementation beyond the first year of implementation should also be provided.
(j) A list of potential Watershed Education Activities.
(k) Identification and description of the Watershed Education Activities to be implemented by each Copermittee for the first year of implementation, including justification for why the activities were chosen and a description of how the activities are expected to directly target the sources and discharges of pollutants causing the watershed's high priority water quality problems. Plans for activity implementation beyond the first year of implementation should also be provided.
(l) A description of the public participation mechanisms to be used and the parties anticipated to be involved.
(m) A description of Copermittee collaboration to occur, including a schedule for WURMP meetings.
(n) A description of any TMDL BMP Implementation Plan or equivalent plan to be implemented under section H of this Order.[12]
(o) A detailed description of the effectiveness assessment to be conducted for the WURMP, including a description how each of the requirements in section I.2 of this Order will be met.

c. REGIONAL URBAN RUNOFF MANAGEMENT PLAN

(1) Copermittees - The written account of the regional program to be conducted is referred to as the Regional Urban Runoff Management Plan (RURMP). Each Copermittee shall collaborate with the other Copermittees to develop the RURMP. The RURMP shall describe all activities the Copermittees will undertake to implement the requirements of each component of Regional Urban

[12] For TMDLs not yet approved by the Office of Administrative Law at the time of adoption of this Order, TMDL BMP Implementation Plans shall be submitted separately 365 days following approval of the TMDL.

Runoff Management Program section F of this Order. At a minimum, the RURMP shall contain the following information:

(a) A common activities section that describes the urban runoff management activities to be implemented on a regional level. For regional activities which are to be implemented in compliance with any jurisdictional requirements of section D or watershed requirements of section E, it shall be described how the regional activities achieve compliance with the subject jurisdictional and/or watershed requirements.
(b) A description of steps that will be taken to facilitate assessment of the effectiveness of jurisdictional, watershed, and regional programs.
(c) A description of the regional residential education program to be implemented.
(d) A description of the strategy for development of the standardized fiscal analysis method required by section G of this Order.
(e) A detailed description of the effectiveness assessment to be conducted for the Regional Urban Runoff Management Program, including a description how each of the requirements in section I.3 of this Order will be met.

(2) The Principal Permittee shall be responsible for creating and submitting the RURMP. The Principal Permittee shall submit the RURMP to the Regional Board 365 days after adoption of this Order.

2. Other Required Reports and Plans

a. HYDROMODIFICATION MANAGEMENT PLAN

(1) Copermittees - Each Copermittee shall collaborate with the other Copermittees to develop the HMP. The HMP shall be submitted for approval by the Regional Board.

(2) Principal Permittee - The Principal Permittee shall be responsible for producing and submitting each document according to the schedule below.

(a) Within 180 days of adoption of the Order: Submit a detailed workplan and schedule for completion of the literature review, development of a protocol to identify an appropriate channel standard and limiting range of flow rates, development of guidance materials, and other required information;
(b) Within 18 months of adoption of the Order: Submit progress report on completion of requirements of the HMP;
(c) Within 2 years of adoption of the Order: Submit a draft HMP, including the analysis that identifies the appropriate limiting range of flow rates;
(d) Within 180 days of receiving comments from the Regional Board: Submit the HMP for Regional Board approval.

b. SUSMP UPDATES

Each Copermittee shall collaborate with the other Copermittees to update the Model SUSMP. The Principal Permittee shall be responsible for producing and submitting the updated Model SUSMP in accordance with the requirements of section D.1.d.(8)(b). Each Copermittee shall submit its updated local SUSMP, consistent

with the updated Model SUSMP, in accordance with the requirements of section D.1.d.(8)(c).

c. LONG-TERM EFFECTIVENESS ASSESSMENT

In accordance with section I.5 of this Order, the Principal Permittee shall submit the LTEA to the Regional Board no later than 210 days in advance of the expiration of this Order.

d. REPORT OF WASTE DISCHARGE

The Principal Permittee shall submit to the Regional Board, no later than 210 days in advance of the expiration date of this Order, a Report of Waste Discharge (ROWD) as an application for issuance of new waste discharge requirements. At a minimum, the ROWD shall include the following: (1) Proposed changes to the Copermittees' urban runoff management programs; (2) Proposed changes to monitoring programs; (3) Justification for proposed changes; (4) Name and mailing addresses of the Copermittees; (5) Names and titles of primary contacts of the Copermittees; and (6) Any other information necessary for the reissuance of this Order.

3. Annual Reports

a. JURISDICTIONAL URBAN RUNOFF MANAGEMENT PROGRAM ANNUAL REPORTS

Each Jurisdictional Urban Runoff Management Program Annual Report shall contain a comprehensive description of all activities conducted by the Copermittee to meet all requirements of section D. The reporting period for these annual reports shall be the previous fiscal year. For example, the report submitted September 30, 2008 shall cover the reporting period July 1, 2007 to June 30, 2008.

(1) Copermittees – Each Copermittee shall generate individual Jurisdictional Urban Runoff Management Program Annual Reports which cover implementation of its jurisdictional activities during the past annual reporting period. Each Copermittee shall submit to the Principal Permittee its individual Jurisdictional Urban Runoff Management Program Annual Report by the date specified by the Principal Permittee. Each individual Jurisdictional Urban Runoff Management Program Annual Report shall be a comprehensive description of all activities conducted by the Copermittees to meet all requirements of each component of section D of this Order.

(2) Principal Permittee – The Principal Permittee shall submit Unified Jurisdictional Urban Runoff Management Program Annual Reports to the Regional Board by September 30 of each year, beginning on September 30, 2008. The Unified Jurisdictional Urban Runoff Management Program Annual Report shall contain the twenty-one individual Jurisdictional Urban Runoff Management Program Annual Reports.

The Principal Permittee shall also be responsible for collecting and assembling each Copermittees' individual Jurisdictional Urban Runoff Management Program Annual Report.

(3) At a minimum, each Jurisdictional Urban Runoff Management Program Annual Report shall contain the following information:

(a) Development Planning

i. A description of any amendments to the General Plan, the environmental review process, development project approval processes, or development project requirements.
ii. Confirmation that all development projects were required to undergo the Copermittee's urban runoff approval process and meet the applicable project requirements, including a description of how this information was tracked.
iii. A listing of the development projects to which SUSMP requirements were applied.
iv. Confirmation that all applicable SUSMP BMP requirements were applied to all priority development projects, including a description of how this information was tracked.
v. At least one example of a priority development project that was conditioned to meet SUSMP requirements and a description of the required BMPs.
vi. A listing of the priority development projects which were allowed to implement treatment control BMPs with low removal efficiency rankings, including the feasibility analyses which were conducted to exhibit that more effective BMPs were infeasible.
vii. An updated treatment control BMP inventory.
viii. The number of treatment control BMPs inspected, including a summary of inspection results and findings.
ix. A description of the annual verification of operation and maintenance of treatment control BMPs, including a summary of verification results and findings.
x. Confirmation that BMP verification was conducted for all priority development projects prior to occupancy, including a description of how this information was tracked.
xi. A listing of any projects which received a SUSMP waiver.
xii. A description of implementation of any SUSMP waiver mitigation program.
xiii. A description of Hydromodification Management Plan (HMP) development collaboration and participation.
xiv. A listing of development projects required to meet HMP requirements, including a description of hydrologic control measures implemented.
xv. A listing of priority development projects not required to meet HMP requirements, including a description of why the projects were found to be exempt from the requirements.
xvi. A listing of development projects disturbing 50 acres or more, including information on whether Interim Hydromodification Criteria were met by each of the projects, together with a description of hydrologic control measures implemented for each applicable project.
xvii. The number of violations and enforcement actions (including types) taken for development projects, including information on any necessary follow-up actions taken. The discussion should exhibit that compliance has been achieved, or describe actions that are being taken to achieve compliance.

xviii. A description of notable activities conducted to manage urban runoff from development projects.

(b) Construction

i. Confirmation that all construction sites were required to undergo the Copermittee's construction urban runoff approval process and meet the applicable construction requirements, including a description of how this information was tracked.
ii. Confirmation that a regularly updated construction site inventory was maintained, including a description of how the inventory was managed.
iii. A description of modifications made to the construction and grading ordinances and approval processes.
iv. Confirmation that the designated BMPs were implemented, or required to be implemented, for all construction sites.
v. Confirmation that a maximum disturbed area for grading was applied to all applicable construction sites.
vi. A listing of all construction sites with conditions requiring advanced treatment, together with confirmation that advanced treatment was required at such construction sites.
vii. For each construction site within each priority category (high, medium, and low), identification of the period of time (weeks) the site was active within the rainy season, the number of inspections conducted during the rainy season, and the number of inspections conducted during the dry season, and the total number of inspections conducted for all sites.
viii. A description of the general results of the inspections.
ix. Confirmation that the inspections conducted addressed all the required inspection steps to determine full compliance.
x. The number of violations and enforcement actions (including types) taken for construction sites, including information on any necessary follow-up actions taken. The discussion should exhibit that compliance has been achieved, or describe actions that are being taken to achieve compliance.
xi. A description of notable activities conducted to manage urban runoff from construction sites.

(c) Municipal

i. Any updates to the municipal inventory and prioritization.
ii. Confirmation that the designated BMPs were implemented, or required to be implemented, for municipal areas and activities, as well as special events.
iii. A description of inspections and maintenance conducted for municipal treatment controls.
iv. Identification of the total number of catch basins and inlets, the number of catch basins and inlets inspected, the number of catch basins and inlets found with accumulated waste exceeding cleaning criteria, and the number of catch basins and inlets cleaned.
v. Identification of the total distance (miles) of the MS4, the distance of the MS4 inspected, the distance of the MS4 found with accumulated waste exceeding cleaning criteria, and the distance of the MS4 cleaned.
vi. Identification of the total distance (miles) of open channels, the distance of open channels inspected, the distance of open channels found with anthropogenic litter, and the distance of open channels cleaned.

vii. Amount of waste and litter (tons) removed from catch basins, inlets, the MS4, and open channels, by category.
viii. Identification of any MS4 facility found to require inspection less than annually following two years of inspection, including justification for the finding.
ix. Confirmation that the designated BMPs for pesticides, herbicides, and fertilizers were implemented, or required to be implemented, for municipal areas and activities.
x. Identification of the total distance of curb-miles of improved roads, streets, and highways identified as consistently generating the highest volumes of trash and/or debris, as well as the frequency of sweeping conducted for such roads, streets, and highways.
xi. Identification of the total distance of curb-miles of improved roads, streets, and highways identified as consistently generating moderate volumes of trash and/or debris, as well as the frequency of sweeping conducted for such roads, streets, and highways.
xii. Identification of the total distance of curb-miles of improved roads, streets, and highways identified as consistently generating low volumes of trash and/or debris, as well as the frequency of sweeping conducted for such roads, streets, and highways.
xiii. Identification of the total distance of curb-miles swept.
xiv. Identification of the number of municipal parking lots, the number of municipal parking lots swept, and the frequency of sweeping.
xv. Amount of material (tons) collected from street and parking lot sweeping.
xvi. A description of efforts implemented to prevent and eliminate infiltration from the sanitary sewer to the MS4
xvii. Identification of the number of sites requiring inspections, the number of sites inspected, and the frequency of the inspections.
xviii. A description of the general results of the inspections.
xix. Confirmation that the inspections conducted addressed all the required inspection steps to determine full compliance.
xx. The number of violations and enforcement actions (including types) taken for municipal areas and activities, including information on any necessary follow-up actions taken. The discussion should exhibit that compliance has been achieved, or describe actions that are being taken to achieve compliance.
xxi. A description of notable activities conducted to manage urban runoff from municipal areas and activities.

(d) Industrial and Commercial
i. Any updates to the industrial and commercial inventory.
ii. Confirmation that the designated BMPs were implemented, or required to be implemented, for industrial and commercial sites/sources.
iii. A description of efforts taken to notify owners/operators of industrial and commercial sites/sources of BMP requirements, including mobile businesses.
iv. Identification of the total number of industrial and commercial sites/sources inventoried and the total number inspected.
v. Justification and rationale for why the industrial and commercial sites/sources inspected were chosen for inspection.

vi. Confirmation that all inspections conducted addressed all the required inspection steps to determine full compliance.
vii. Identification of the number of third party inspections conducted.
viii. Identification of efforts conducted to verify third party inspection effectiveness.
ix. A description of efforts implemented to address mobile businesses.
x. The number of violations and enforcement actions (including types) taken for industrial and commercial sites/sources, including information on any necessary follow-up actions taken. The discussion should exhibit that compliance has been achieved, or describe actions that are being taken to achieve compliance.
xi. A description of steps taken to identify non-filers and a list of non-filers (under the General Industrial Permit) identified by the Copermittees.
xii. A description of notable activities conducted to manage urban runoff from industrial and commercial sites/sources.

(e) Residential
i. Identification of the high threat to water quality residential areas and activities that were focused on.
ii. Confirmation that the designated BMPs were implemented, or required to be implemented, for residential areas and activities.
iii. A description of efforts implemented to facilitate proper management and disposal of used oil and other household hazardous materials.
iv. Types and amounts of household hazardous wastes collected, if applicable.
v. A description of any evaluation of methods used for oversight of residential areas and activities, as well as any findings of the evaluation.
vi. The number of violations and enforcement actions (including types) taken for residential areas and activities, including information on any necessary follow-up actions taken. The discussion should exhibit that compliance has been achieved, or describe actions that are being taken to achieve compliance.
vii. A description of collaboration efforts taken to develop and implement the Regional Residential Education Program.
viii. A description of notable activities conducted to manage urban runoff from residential areas and activities.

(f) Illicit Discharge Detection and Elimination
i. Correction of any inaccuracies in either the MS4 map or the Dry Weather Field Screening and Analytical Stations Map.
ii. Reporting of all dry weather field screening and analytical monitoring results. The data should be presented in tabular and graphical form. The reporting shall include station locations, all dry weather field screening and analytical monitoring results, identification of sites where results exceeded action levels, follow-up and elimination activities for potential illicit discharges and connections, the rationale for why follow-up investigations were not conducted at sites where action levels were exceeded, any Copermittee or consultant program recommendations/changes resulting from the monitoring, and documentation that these recommendations/changes have been implemented. Dry weather field screening and analytical monitoring reporting shall comply with all monitoring and standard reporting

requirements in Attachment B of Order No. R9-2007-0001 and Receiving Waters Monitoring and Reporting Program No. R9-2007-0001.

iii. Any dry weather field screening and analytical monitoring consultant reports generated, to be provided as an attachment to the annual report.
iv. A brief description of any other investigations and follow-up activities for illicit discharges and connections.
v. The number and brief description of illicit discharges and connections identified.
vi. The number of illicit discharges and connections eliminated.
vii. Identification and description of all spills to the MS4 and response to the spills.
viii. A description of activities implemented to prevent sewage and other spills from entering the MS4.
ix. A description of the mechanism whereby notification of sewage spills from private laterals and septic systems is received.
x. Number of times the hotline was called, as compared to previous reporting periods, and a summary of the calls.
xi. A description of efforts to publicize and facilitate public reporting of illicit discharges.
xii. The number of violations and enforcement actions (including types) taken for illicit discharges and connections, including information on any necessary follow-up actions taken. The discussion should exhibit that compliance has been achieved, or describe actions that are being taken to achieve compliance.
xiii. A description of notable activities conducted to manage illicit discharges and connections.

(g) Education
i. A description of education efforts conducted for each target community.
ii. A description of how education efforts targeted underserved target audiences, high-risk behaviors, and "allowable" behaviors and discharges.
iii. A description of education efforts conducted for municipal departments and personnel.
iv. A description of education efforts conducted for the new development and construction communities.
v. A description of jurisdictional education efforts conducted for residents, the general public, and school children.

(h) Public Participation
i. A description of public participation efforts conducted.

(i) Program Effectiveness Assessment
i. An assessment of the effectiveness of the Jurisdictional Urban Runoff Management Program which meets all requirements of section I.1 of this Order.

(j) Fiscal Analysis
i. A fiscal analysis of the Copermittee's urban runoff management programs which meets all requirements of section G of this Order.

(k) Special Investigations
i. A description of any special investigations conducted.

(l) Non-Emergency Fire Fighting
i. A description of any efforts conducted to reduce pollutant discharges from non-emergency fire fighting flows.

(m) JURMP Revisions
i. A description of any proposed revisions to the JURMP.

b. WATERSHED URBAN RUNOFF MANAGEMENT PROGRAM ANNUAL REPORTS

(1) Lead Watershed Permittee - Each Lead Watershed Permittee shall generate watershed specific Watershed Urban Runoff Management Program Annual Reports for their respective watershed(s), as they are outlined in Table 4 of Order No. R9-2007-0001. Copermittees within each watershed shall collaborate with the Lead Watershed Permittee to generate the Watershed Urban Runoff Management Program Annual Reports.

(2) Each Watershed Urban Runoff Management Program Annual Report shall be a comprehensive documentation of all activities conducted by the watershed Copermittees during the previous annual reporting period to meet all requirements of section E of Order No. R9-2007-0001. Each Watershed Urban Runoff Management Program Annual Report shall also serve as an update to the WURMP.[13] Each Watershed Urban Runoff Management Program Annual Report shall, at a minimum, contain the following for its reporting period:

(a) A comprehensive description of all activities conducted by the watershed Copermittees to meet all requirements of section E of Order No. R9-2007-0001.

(b) Any updates to the watershed map.

(c) An updated assessment and analysis of the watershed's current and past applicable water quality data, reports, analyses, and other information, including identification of the watershed's water quality problems and high priority water quality problem(s) during the reporting period. The annual report shall clearly state if the watershed's high priority water quality problem(s) changed from the previous reporting period, and provide justification for the change(s).

(d) Identification of the likely sources, pollutant discharges, and/or other factors causing the high priority water quality problems within the watershed. The annual report shall clearly describe any changes to the identified sources, pollutant discharges, and/or other factors that have occurred since the previous reporting period, and provide justification for the changes.

[13] The first annual report to be submitted is not anticipated to be an update to the WURMP, since it will cover the reporting period which begins immediately after WURMP submittal.

(e) An updated list of potential Watershed Water Quality Activities. The annual report shall clearly describe any changes to the list of Watershed Water Quality Activities that have occurred since the previous reporting period, and provide justification for the changes.

(f) Identification and description of the Watershed Water Quality Activities implemented by each Copermittee during the reporting period, including information on the activities' location(s), as well as information exhibiting that the activities in active implementation phase reduced discharged pollutant loads, abated pollutant sources, or resulted in other quantifiable benefits to discharge or receiving water quality, in relation to the watershed's high priority water quality problem(s). The annual report shall clearly describe any changes to Watershed Water Quality Activities implementation that have occurred since the previous reporting period, and provide justification for the changes.

(g) An updated list of potential Watershed Education Activities. The annual report shall clearly describe any changes to the list of Watershed Education Activities that have occurred since the previous reporting period, and provide justification for the changes.

(h) Identification and description of the Watershed Education Activities implemented by each Copermittee for the reporting period, including information exhibiting that the activities directly targeted the sources and discharges of pollutants causing the watershed's high priority water quality problems, and that activities in active implementation phase changed target audience attitudes, knowledge, awareness, or behavior. The annual report shall clearly describe any changes to Watershed Education Activities implementation that have occurred since the previous reporting period, and provide justification for the changes.

(i) A description of the public participation mechanisms used during the reporting period and the parties that were involved.

(j) A description of Copermittee collaboration efforts.

(k) A description of efforts implemented to encourage collaborative, watershed-based, land-use planning.

(l) A description of all TMDL activities implemented (including BMP Implementation Plan or equivalent plan activities) for each approved TMDL in the watershed. The description shall include:

i. Any additional source identification information;
ii. The number, type, location, and other relevant information about BMP implementation, including any expanded or better tailored BMPs necessary to meet the WLAs;
iii. Updates in the BMP implementation prioritization and schedule;
iv. An assessment of the effectiveness of the BMP Implementation Plan, which meets the requirements of section I.4 Order No. R9-2007-0001; and

v. A discussion of the progress to date in meeting the TMDL Numeric Targets and WLAs, which incorporates the results of the effectiveness assessment, compliance monitoring, and an evaluation of additional efforts needed to date.

(m) An assessment of the effectiveness of the WURMP, which meets the requirements of section I.2 of Order No. R9-2007-0001. The effectiveness assessment shall attempt to qualitatively or quantitatively exhibit the impact that implementation of the Watershed Water Quality Activities and the Watershed Education Activities had on the high priority water quality problem(s) within the watershed. This information shall document changes in pollutant load discharges, urban runoff and discharge quality, and receiving water quality, where applicable and feasible.

(3) Principal Permittee – The Unified Watershed Urban Runoff Management Program Annual Report shall contain the nine separate Watershed Urban Runoff Management Program Annual Reports. Each Lead Watershed Copermittee shall submit to the Principal Permittee a Watershed Urban Runoff Management Program Annual Report by the date specified by the Principal Permittee. The Principal Permittee shall assemble and submit the Unified Watershed Urban Runoff Management Program Annual Report to the Regional Board by January 31, 2009 and every January 31 thereafter. The reporting period for these annual reports shall be the previous fiscal year. For example, the report submitted January 31, 2009 shall cover the reporting period July 1, 2007 to June 30, 2008.

c. REGIONAL URBAN RUNOFF MANAGEMENT PROGRAM ANNUAL REPORTS

The Principal Permittee shall generate the Regional Urban Runoff Management Program Annual Reports. All Copermittees shall collaborate with the Principal Permittee to generate the Regional Urban Runoff Management Program Annual Reports. Each Regional Urban Runoff Management Program Annual Report shall be a comprehensive documentation of all regional activities conducted by the Copermittees during the previous annual reporting period to meet all requirements of section F of Order No. R9-2007-0001.

The Principal Permittee shall submit the Regional Urban Runoff Management Program Annual Report to the Regional Board by January 31, 2009 and every January 31 thereafter. The reporting period for these annual reports shall be the previous fiscal year. For example, the report submitted January 31, 2009 shall cover the reporting period July 1, 2007 to June 30, 2008.

Each Regional Urban Runoff Management Program Annual Report shall, at a minimum, contain the following:

(1) A common activities section that describes the urban runoff management activities or BMPs implemented on a regional level, including information on how the activities complied with jurisdictional or watershed requirements, if applicable.
(2) A description of steps taken to facilitate assessment of the effectiveness of jurisdictional, watershed, and regional programs.

(3) A description of the regional residential education activities implemented as part of the regional residential education program.
(4) A description of steps taken to develop and implement the standardized fiscal analysis method.
(5) An assessment of the effectiveness of the Regional Urban Runoff Management Program which meets the requirements of section I.3 of Order No. R9-2007-0001.

4. **Interim Reporting Requirements -** For the July 2006–June 2007 reporting period, Jurisdictional URMP and Watershed URMP Annual Reports shall be submitted on January 31, 2008. Each Jurisdictional URMP and Watershed URMP Annual Report submitted for this reporting period shall at a minimum be comprehensive descriptions of all activities conducted to fully implement the Copermittees' Jurisdictional URMP and Watershed URMP documents, as those documents were developed to comply with the requirements of Order No. 2001-01. The Principal Permittee shall be responsible for submitting these documents in a unified manner, consistent with the unified reporting requirements of Order No. 2001-01.

5. **Annual Report Integration**

a. The Copermittees are encouraged to submit, for Regional Board review and approval, an annual reporting format which integrates the information submitted in the JURMP, WURMP, and RURMP Annual Reports and Monitoring Reports. This document shall be called the "Integrated Annual Report Format." The Integrated Annual Report Format should:

(1) Exhibit compliance with all requirements of JURMP, WURMP, and RURMP sections D, E, and F of Order No. R9-2007-0001.
(2) Report all information required in section J.3 of Order No. R9-2007-0001.
(3) Report all information required in the Monitoring and Reporting program.
(4) Provide consistent and comparable reporting of jurisdictional and watershed information by all Copermittees and watershed groups.
(5) Specifically identify all types of information that will be reported (e.g., amount of debris collected during street sweeping), including reporting criteria for each type of information (e.g., reported in tons).
(6) Describe quality assurance/quality control methods to be used to assess accuracy of jurisdictional and watershed information conveyed.
(7) Describe each Copermittee's reporting responsibilities under the format.
(8) Improve the Copermittees' ability to assess JURMP and WURMP effectiveness in terms of water quality.
(9) Include a separate section for reporting on each Copermittee's activities.
(10) Include a separate section for reporting on each watershed's activities.

b. Upon approval of the Integrated Annual Report Format by the Regional Board, an Integrated Annual Report shall be submitted annually, which may substitute for the JURMP Annual Reports, WURMP Annual Reports, RURMP Annual Report, and/or Monitoring Reports, as approved by the Regional Board. The Principal Permittee shall be responsible for the generation and submittal of the Integrated Annual Reports. Each Copermittee shall be responsible for the information in the Integrated Annual Report pertaining to its jurisdictional, watershed, regional, and monitoring responsibilities. The Integrated Annual Report shall be submitted the first January 31 following approval of the reporting format by the Regional Board, and every January

31 thereafter. The reporting period for Integrated Annual Reports shall be the previous fiscal year. For example, a report submitted January 31, 2010 shall cover the reporting period July 1, 2008 to June 30, 2009.

c. The format and information provided in Integrated Annual Reports shall match and be consistent with the format and information described in the Integrated Annual Report Format.

6. Universal Reporting Requirements

All submittals shall include an executive summary, introduction, conclusion, recommendations, and signed certified statement. Each Copermittee shall submit a signed certified statement covering its responsibilities for each applicable submittal. The Principal Permittee shall submit a signed certified statement covering its responsibilities for each applicable submittal and the sections of the submittals for which it is responsible.

K. MODIFICATION OF PROGRAMS

Modifications of Jurisdictional Urban Runoff Management Programs, Watershed Urban Runoff Management Programs, and/or the Regional Urban Runoff Management Program may be initiated by the Executive Officer or by the Copermittees. Requests by Copermittees shall be made to the Executive Officer, and shall be submitted during the annual review process. Requests for modifications should be incorporated, as appropriate, into the Annual Reports or other deliverables required or allowed under this Order.

1. Minor Modifications – Minor modifications to Jurisdictional Urban Runoff Management Programs, Watershed Urban Runoff Management Programs, and/or the Regional Urban Runoff Management Program may be accepted by the Executive Officer where the Executive Officer finds the proposed modification complies with all discharge prohibitions, receiving water limitations, and other requirements of this Order.

2. Modifications Requiring an Amendment to this Order – Proposed modifications that are not minor shall require amendment of this Order in accordance with this Order's rules, policies, and procedures.

L. ALL COPERMITTEE COLLABORATION

1. Each Copermittee collaborate with all other Copermittees regulated under this Order to address common issues, promote consistency among Jurisdictional Urban Runoff Management Programs and Watershed Urban Runoff Management Programs, and to plan and coordinate activities required under this Order.

   a. Management Structure - All Copermittees shall jointly execute and submit to the Regional Board no later than 180 days after adoption of this Order, a Memorandum of Understanding, Joint Powers Authority, or other instrument of formal agreement which at a minimum:

      (1) Identifies and defines the responsibilities of the Principal Permittee and Lead Watershed Permittees;
      (2) Identifies Copermittees and defines their individual and joint responsibilities, including watershed responsibilities;

(3) Establishes a management structure to promote consistency and develop and implement regional activities;
(4) Establishes standards for conducting meetings, decision-making, and cost-sharing;
(5) Provides guidelines for committee and workgroup structure and responsibilities;
(6) Lays out a process for addressing Copermittee non-compliance with the formal agreement; and
(7) Includes any and all other collaborative arrangements for compliance with this Order.

M. PRINCIPAL PERMITTEE RESPONSIBILITIES

Within 180 days of adoption of this Order, the Copermittees shall designate the Principal Permittee and notify the Regional Board of the name of the Principal Permittee. The Principal Permittee shall, at a minimum:

1. Serve as liaison between the Copermittees and the Regional Board on general permit issues, and when necessary and appropriate, represent the Copermittees before the Regional Board.

2. Coordinate permit activities among the Copermittees and facilitate collaboration on the development and implementation of programs required under this Order.

3. Integrate individual Copermittee documents and reports into single unified documents and reports for submittal to the Regional Board as required under this Order.

4. Produce and submit documents and reports as required by section J of this Order and Receiving Waters and Urban Runoff Monitoring and Reporting Program No. R9-2007-0001.

5. Submit to the Regional Board, within 180 days of adoption of this Order, a formal agreement between the Copermittees which provides a management structure for meeting the requirements of this Order (as described in section L).

6. Coordinate joint development by all of the Copermittees of standardized format(s) for all documents and reports required under this Order (e.g., JURMPs, WURMPs, annual reports, monitoring reports, etc.). The standardized reporting format(s) shall be used by all Copermittees. The Principal Permittee shall submit the standardized format(s) to the Regional Board for review no later than 180 days after adoption of this Order.

N. RECEIVING WATERS MONITORING AND REPORTING PROGRAM

Pursuant to CWC section 13267, the Copermittees shall comply with all the requirements contained in Receiving Waters and Urban Runoff Monitoring and Reporting Program No. R9-2007-0001.

O. STANDARD PROVISIONS, REPORTING REQUIREMENTS, AND NOTIFICATIONS

1. Each Copermittee shall comply with Standard Provisions, Reporting Requirements, and Notifications contained in Attachment B of this Order. This includes 24 hour/5day reporting requirements for any instance of non-compliance with this Order as described

in section 5.e of Attachment B.

2. All plans, reports and subsequent amendments submitted in compliance with this Order shall be implemented immediately (or as otherwise specified). All submittals by Copermittees must be adequate to implement the requirements of this Order.

I, John H. Robertus, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Diego Region, on January 24, 2007.

John H. Robertus
Executive Officer

ATTACHMENT A

BASIN PLAN PROHIBITIONS

California Water Code Section 13243 provides that a Regional 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 discharge prohibitions 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 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 Regional Board issues a NPDES permit authorizing such a discharge; the proposed discharge has been approved by the State Department of Health Services 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 Regional 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 Regional Board.

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 Regional Board.

8. Any discharge to a storm water conveyance system that is not composed entirely of "storm water" is prohibited unless authorized by the Regional 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 Regional 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.

ATTACHMENT B

STANDARD PROVISIONS, REPORTING REQUIREMENTS, AND NOTIFICATIONS

1. STANDARD PROVISIONS – PERMIT COMPLIANCE [40 CFR 122.41]

(a) *Duty to comply* [40 CFR 122.41(a)].

(1) The Copermittee must comply with all of the conditions of this Order. Any noncompliance constitutes a violation of the Clean Water Act (CWA) and the California Water Code (CWC) and is grounds for enforcement action, for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

(2) The Copermittee shall comply with effluent standards or prohibitions established under section 307(a) of the CWA 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 Order has not yet been modified to incorporate the requirement.

(b) *Need to halt or reduce activity not a defense* [40 CFR 122.41(c)]. It shall not be a defense for the 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 Order.

(c) *Duty to mitigate* [40 CFR 122.41(d)]. The Copermittee shall take all reasonable steps to minimize or prevent any discharge or prevent any discharge or sludge use or disposal in violation of this Order that has a reasonable likelihood of adversely affecting human health or the environment.

(d) *Proper operation and maintenance* [40 CFR 122.41(e)]. The Copermittee shall 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 Order. 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 the Copermittee only when necessary to achieve compliance with the conditions of this Order.

(e) *Property rights* [40 CFR 122.41(g)].

(1) This Order does not convey any property rights of any sort or any exclusive privilege.
(2) The issuance of this Order does not authorize any injury to persons or property or invasion of other private rights, or any infringement of State or local law or regulations.

(f) *Inspection and entry* [40 CFR 122.41(i)]. The Copermittee shall allow the Regional Water Quality Control Board, San Diego Region (Regional Board), State Water Resources Control Board (SWRCB), United States Environmental Protection Agency (USEPA), and/or their authorized representatives (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 Order;
(2) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Order;
(3) Inspect and photograph, at reasonable times, any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order; and
(4) Sample or monitor, at reasonable times, for the purpose of assuring Order compliance or as otherwise authorized by the CWA or the CWC, any substances or parameters at any location.

(g) *Bypass* [40 CFR 122.41(m)]

(1) Definitions:

i) "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.
ii) "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 that 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.

(2) Bypass not exceeding limitations - The Copermittee may allow any bypass to occur which does not cause exceedances of effluent limitations, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions listed in Standard Provisions – Permit Compliance (g)(3), (g)(4) and (g)(5) below.

(3) Prohibition of Bypass - Bypass is prohibited, and the Regional Board may take enforcement action against a Copermittee for bypass, unless:

i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
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; and
iii) The Copermittee submitted notice as required under Standard Provisions – Permit Compliance (g)(3) above.

(4) Notice

i) Anticipated bypass. If the Copermittee knows in advance of the need for a bypass, it shall submit a notice, if possible at least ten days before the date of the bypass.
ii) Unanticipated bypass. The Copermittee shall submit notice of an unanticipated bypass as required in Standard Provisions 5(e) below (24-hour notice).

(h) *Upset* [40 CFR 122.41(n)] Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology based 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.

(1) 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 requirements of Standard Provisions – Permit Compliance (h)(2) below 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.

(2) Conditions necessary for a demonstration of upset. A Copermittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

i) An upset occurred and that the Copermittee can identify the cause(s) of the upset;
ii) The permitted facility was at the time being properly operated;
iii) The Copermittee submitted notice of the upset as required in Standard Provisions – Permit Compliance (5)(e)(ii)(B) below (24-hour notice); and
iv) The Copermittee complied with any remedial measures required under Standard Provisions – Permit Compliance 1(c) above.

(3) Burden of Proof. In any enforcement proceeding, the Copermittee seeking to establish the occurrence of an upset has the burden of proof.

2. STANDARD PROVISIONS – PERMIT ACTION

(a) *General* [40 CFR 122.41(f)] This Order may be modified, revoked and reissued, or terminated for cause. The filing of a request by the Copermittee for modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any Order condition.

(b) *Duty to reapply* [40 CFR 122.41(b)]. If the Copermittee wishes to continue an activity regulated by this Order after the expiration date of this Order, the Copermittee must apply for and obtain new permit.

(c) *Transfers*. This Order is not transferable to any person except after notice to the Regional Board. The Regional Board may require modification or revocation and reissuance of the Order to change the name of the Copermittee and incorporate such other requirements as may be necessary under the CWA and the CWC.

3. STANDARD PROVISIONS – MONITORING

(a) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity. [40 CFR Section 122.41 (j) (1)]

(b) Monitoring results must be conducted according to test procedures under 40 CFR Part 136, or in the case of sludge use or disposal, approved under 40 CFR Part 136 unless otherwise

specified in 40 CFR Part 503 unless other test procedures have been specified in this Order [40 CFR Section 122.41(j)(4)][40 CFR Section 122.44(i)(1)(iv)].

4. STANDARD PROVISIONS – RECORDS

(a) Except for records of monitoring information required by this Order related to the Copermittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR Part 503), the Copermittee shall 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 Order, and records of all data used to complete the application for this Order, 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 Regional Water Board Executive Officer at any rime [40 CFR Section 122.41(j)(2)].

(b) *Records of monitoring information* [40 CFR 122.41(j) (3)] shall include:

(1) The date, exact place, and time of sampling or measurements;
(2) The individual(s) who performed the sampling or measurements;
(3) The date(s) analyses were performed;
(4) The individual(s) who performed the analyses;
(5) The analytical techniques or methods used; and
(6) The results of such analyses.

(c) *Claims of confidentiality* [40 CFR Section 122.7(b)] of the following information will be denied:

(1) The name and address of any permit applicant or Copermittee; and
(2) Permit applications and attachments, permits and effluent data.

5. STANDARD PROVISIONS – REPORTING

(a) *Duty to provide information* [40 CFR 122.41(h)]. The Copermittee shall furnish to the Regional Board, SWRCB, or USEPA within a reasonable time, any information which the Regional Board, SWRCB, or USPEA may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Order or to determine compliance with this Order. Upon request, the Copermittee shall also furnish to the Regional Board, SWRCB, or USEPA, copies of records required to be kept by this Order.

(b) *Signatory and Certification Requirements* [40 CFR 122.41(k)]

(1) All applications, reports, or information submitted to the Regional Board, SWRCB, or USEPA shall be signed and certified in accordance with Standard Provisions – Reporting 5(b)ii), 5(b)iii), 5(b)iv), and 5(b) (see 40 CFR 122.22)

(2) *Applications* [40 CFR 122.22(a)(3)] All permit applications shall be signed by either a principal executive officer or ranking elected official.

(3) *Reports* [40 CFR 122.22(b)]. All reports required by this Order, and other information requested by the Regional Board, SWRCB, or USEPA shall be signed by a person described in Standard Provisions – Reporting 5(b)(2) above, or by a duly authorized

representative of that person. A person is a duly authorized representative only if:

i) The authorization is made in writing by a person described in Standard Provisions-Reporting 5(b)(2) above;

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.); and,

iii) The written authorization is submitted to the Regional Water Board and State Water Board.

(4) *Changes to authorization* [40 CFR Section 122.22(c)] If an authorization under Standard Provisions – Reporting 5(b)(3)of this reporting requirement 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 Standard Provisions – Reporting 5(b)(3) above must be submitted to the Regional Water Board and State Water Board prior to or together with any reports, information, or applications to be signed by an authorized representative.

(5) *Certification* [40 CFR Section 122.22(d)] Any person signing a document under Standard Provisions – Reporting 5(b)(2), or 5(b)(3) above 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."

(c) *Monitoring reports*. [40 CFR 122.41(l)(4)]

(1) Monitoring results shall be reported at the intervals specified in the Receiving Waters and Urban Runoff Monitoring and Reporting Program No. R9-2007-0001.

(2) Monitoring results must be reported on a Discharge Monitoring Report (DMR) form or forms provided or specified by the Regional Board or SWRCB for reporting results of mentoring of sludge use or disposal practices.

(3) If the Copermittee monitors any pollutant more frequently than required by this Order using test procedures approved under 40 CFR Part 136 or, in the case of sludge use or disposal, approved under 40 CFR Part 136 unless otherwise specified in 40 CFR Part 503, or as specified in this Order, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Regional Board.

(4) Calculations for all limitations, which require averaging of measurements, shall utilize an arithmetic mean unless otherwise specified in this Order.

(d) *Compliance schedules*. [40 CFR Section 122.41(l)(5)] Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this Order shall be submitted no later than 14 days following each schedule date.

(e) *Twenty-four hour reporting* [40 CFR Section 122.41(l)(6)]

(1) The Copermittee shall report any noncompliance that may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the Copermittee becomes aware of the circumstances. A written submission shall also be provided within five (5) days of the time the Copermittee becomes aware of the circumstances. The written submission shall 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.

(2) The following shall be included as information, which must be reported within 24 hours under this paragraph:

i) Any unanticipated bypass that exceeds any effluent limitation in the Order (See 40 CFR 122.41(g)).
ii) Any upset which exceeds any effluent limitation in this Order.

(3) The Regional Board may waive the above-required written report under this provision on a case-by-case basis if the oral report has been received within 24 hours.

(f) *Planned changes*. [40 CFR Section 122.41(l)(1)] The Copermittee shall give notice to the Regional Board as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required under this provision only when:

(1) 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); or

(2) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants, which are not subject to effluent limitations in this Order.

(3) The alteration or addition results in a significant change in the Copermittee'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 Order, 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.

(g) *Anticipated noncompliance*. [40 CFR Section 122.41(l)(7)] The Copermittee shall give advance notice to the Regional Board or SWRCB of any planned changes in the permitted facility or activity, which may result in noncompliance with Order requirements.

(h) *Other noncompliance* [40 CFR Section 122.41(l) 7)] The Copermittee shall report all instances of noncompliance not reported under Standard Provisions 5(c), 5(d), and 5(e) above, at the time monitoring reports are submitted. The reports shall contain the information listed in Standard Provision – Reporting 5(e) above.

(i) *Other information* [40 CFR Section 122.41(l)(8)] 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 Regional Board, SWRCB, or USEPA, the Copermittee shall promptly submit such facts or information.

6. STANDARD PROVISIONS – ENFORCEMENT

(a) The Regional Board is authorized to enforce the terms of this permit under several provisions of the CWC, including, but not limited to, Sections 13385, 13386, and 13387.

7. ADDITIONAL STANDARD PROVISIONS

(a) *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 Director 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 shall include:

(1) The status of implementing the components of the storm water management program that are established as permit conditions;

(2) Proposed changes to the storm water management programs that are established as permit conditions. Such proposed changes shall be consistent with 40 CFR 122.26(d)(2)(iii); 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 40 CFR 122.26(d)(2)(v);

(4) A summary of data, including monitoring data, that is accumulated throughout the reporting year;

(5) Annual expenditures and budget for year following each annual report;

(6) A summary describing the number and nature of enforcement actions, inspections, and public education programs; and

(7) Identification of water quality improvements or degradation.

(b) *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) shall 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.

(c) *Other Effluent Limitations and Standards* [40 CFR 122.44(b)(1)]. If any 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 which is present in the discharge and that standard or prohibition is more stringent than any limitation on the pollutant in this Order, the Regional Board may institute

proceedings under these regulations to modify or revoke and reissue the Order to conform to the toxic effluent standard or prohibition.

(d) *Discharge is a privilege* [CWC section 13263(g)]. 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.

(e) *Review and revision of Order* [CWC section 13263(e)]. Upon application by any affected person, or on its own motion, the Regional Board may review and revise this permit.

(f) *Termination or modification of Order* [CWC section13381]. This permit may be terminated or modified for causes, including, but not limited to, all of the following:

(1) Violation of any condition contained in this Order;
(2) Obtaining this Order by misrepresentation, or failure to disclose fully all relevant facts.
(3) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

(g) *Transfers*. 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) *Conditions not stayed*. The filing of a request by the Copermittee 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.

(i) *Availability*. A copy of this Order shall be kept at a readily accessible location and shall be available to on-site personnel at all times.

(j) *Duty to minimize or correct adverse impacts*. The Copermittees shall 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.

(k) *Interim Effluent Limitations.* The Copermittee shall 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 this Regional Board.

(l) *Responsibilities, liabilities, legal action, penalties* [CWC sections 13385 and 13387]. The Porter-Cologne Water Quality Control Act provides for civil and criminal penalties comparable to, and in some cases greater than, those provided for under the CWA.

Nothing in this Order shall be construed to protect the Copermittee from its liabilities under federal, state, or local laws.

Except as provided for in 40CFR 122.41(m) and (n), nothing in this Order shall be construed to relieve the Copermittee from civil or criminal penalties for noncompliance.

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.

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.

(m) *Noncompliance*. Any noncompliance with this Order constitutes violation of the CWC and is grounds for denial of an application for modification of the Order (also see 40 CFR 122.41(a).

(n) *Director*. For purposes of this Order, the term "Director" used in parts of 40 CFR incorporated into this Order by reference and/or applicable to this Order shall have the same meaning as the term "Regional Board" used elsewhere in this Order, except that in 40 CFR 122.41(h) and (I), "Director" shall mean "Regional Board, SWRCB, and USEPA."

(o) The Regional Board has, in prior years, issued a limited number of individual NPDES permits for non-storm water discharges to MS4s. The Regional Board or SWRCB 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 a MS4. Copermittees may prohibit any non-storm water discharge (or class of non-storm water discharges) to a MS4 that is authorized under such separate NPDES permits.

(p) *Effective date*. This Order shall become 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. 2001-01 upon the effective date of this Order.

(q) *Expiration*. This Order expires five years after adoption.

(r) *Continuation of expired order* [23 CCR 2235.4]. After this Order expires, the terms and conditions of this Order 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.

(s) *Applications*. Any application submitted by a Copermittee for reissuance or modification of this Order shall 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.

(t) *Confidentiality*. 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 Regional Board office.

(u) *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.

(v) *Report submittal*. The Copermittee shall submit reports and provide notifications as required by this Order to the following:

SOUTHERN WATERSHED PROTECTION UNIT
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

Unless otherwise directed, the Copermittee shall submit one hard copy for the official record and one electronic copy of each report required under this Order to the Regional Board and one electronic copy to the EPA.

ATTACHMENT C

DEFINITIONS

Advanced Treatment- Using mechanical or chemical means to flocculate and remove suspended sediment from runoff from construction sites prior to discharge.

Anthropogenic Litter – Trash generated from human activities, not including sediment.

Basin Plan – Water Quality Control Plan, San Diego Basin, Region 9, and amendments, developed by the Regional Board.

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 permits, BMPs are typically 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. biological 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."

Biological Integrity - Defined in Karr J.R. and D.R. Dudley. 1981. Ecological perspective on water quality goals. Environmental Management 5:55-68 as: "A balanced, integrated, adaptive community of organisms having a species composition, diversity, and functional organization comparable to that of natural habitat of the region." Also referred to as ecosystem health.

Clean Water Act Section 402(p) [33 USC 1342(p)] - The federal statute requiring municipal and industrial dischargers to obtain NPDES permits for their discharges of storm water.

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 urban runoff to these water bodies by the Copermittees 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 General Construction 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."

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.

CWA – Federal Clean Water Act

CWC – California Water Code

Development Projects - New development or redevelopment with land disturbing activities; structural development, including construction or installation of a building or structure, the creation of impervious surfaces, public agency projects, and land subdivision.

Dry Season – May 1 through September 30 of each year.

Effectiveness Assessment Outcome Level 1 - Compliance with Activity-based Permit Requirements – Level 1 outcomes are those directly related to the implementation of specific activities prescribed by this Order or established pursuant to it.

Effectiveness Assessment Outcome Level 2 - Changes in Attitudes, Knowledge, and Awareness – Level 2 outcomes are measured as increases in knowledge and awareness among target audiences such as residents, businesses, and municipal employees.

Effectiveness Assessment Outcome Level 3 - Behavioral Change and BMP Implementation – Level 3 outcomes measure the effectiveness of activities in affecting behavioral change and BMP implementation.

Effectiveness Assessment Outcome Level 4 - Load Reductions – Level 4 outcomes measure load reductions which quantify changes in the amounts of pollutants associated with specific sources before and after a BMP or other control measure is employed.

Effectiveness Assessment Outcome Level 5 - Changes in Urban Runoff and Discharge Quality – Level 5 outcomes are measured as changes in one or more specific constituents or stressors in discharges into or from MS4s.

Effectiveness Assessment Outcome Level 6 - Changes in Receiving Water Quality – Level 6 outcomes measure changes to receiving water quality resulting from discharges into and from MS4s, and may be expressed through a variety of means such as compliance with water quality objectives or other regulatory benchmarks, protection of biological integrity, or beneficial use attainment.

Effluent Limitations – Any restriction imposed on quantities, discharge rates, and concentrations of pollutants, which are discharged from point sources into waters of the State. The limitations are designed to ensure that the discharge does not cause water quality objectives to be exceeded in the receiving water and does not adversely affect beneficial uses. Effluent limits are typically numeric (e.g., 10 mg/l), but can also be narrative (e.g., no toxics in toxic amounts).

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 Resources Control Board (Water Quality Control Plan for the San Diego Basin (1994) and amendments); water bodies designated with the RARE beneficial use by the State Water Resources Control Board (Water Quality Control Plan for the San Diego Basin (1994) and amendments); areas designated as preserves or their equivalent under the Multi Species Conservation Program within the Cities and County of San Diego; and any other equivalent environmentally sensitive areas which have been identified by the Copermittees.

Feasibility Analysis – Detailed description of the selection process for the treatment control BMPs for a Priority Development Project, including justification of why one BMP is selected over another. For a Priority Development Project where a treatment control BMP with a low removal efficiency ranking (as identified by the Model SUSMP) is proposed, the analysis shall include a detailed and adequate justification exhibiting the reasons implementation of a treatment control BMP with a higher removal efficiency is infeasible for the Priority Development Project or portion of the Priority Development Project.

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-project 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-project condition. Flow duration within the range of geomorphologically significant flows is important for managing erosion.

GIS – Geographic Information System

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, 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)].

Implementation Assessment – Assessment conducted to determine the effectiveness of Copermittee programs and activities in achieving measurable targeted outcomes, and in determining whether priority sources of water quality problems are being effectively addressed.

Inactive Slopes – Slopes on which no grading or other soil disturbing activities are conducted for 10 or more days.

Integrated Assessment – Assessment to be conducted to evaluate whether program implementation is properly targeted to and resulting in the protection and improvement of water quality.

Jurisdictional Urban Runoff Management Plan (JURMP) – A written description of the specific jurisdictional urban runoff management measures and programs that each Copermittee will implement to comply with this Order and ensure that pollutant discharges in urban 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 functions.

Maximum Extent Practicable (MEP) – The technology-based standard established by Congress in CWA section 402(p)(3)(B)(iii) that operators of MS4s must meet. Technology-based standards establish the level of pollutant reductions that dischargers must achieve, typically by treatment or by a combination of source control and treatment control BMPs. MEP generally emphasizes pollution prevention and source control BMPs primarily (as the first line of defense) in combination with treatment methods serving as a backup (additional line of defense). MEP considers economics and is generally, but not necessarily, less stringent than BAT. A definition for MEP is not provided either in the statute or in the regulations. Instead the definition of MEP is dynamic and will be defined by the following process over time: municipalities propose their definition of MEP by way of their urban runoff management programs. Their total collective and individual activities conducted pursuant to the urban runoff management programs becomes their

proposal for MEP as it applies both to their overall effort, as well as to specific activities (e.g., MEP for street sweeping, or MEP for MS4 maintenance). In the absence of a proposal acceptable to the Regional Board, the Regional Board defines MEP.

In a memo dated February 11, 1993, entitled "Definition of Maximum Extent Practicable," Elizabeth Jennings, Senior Staff Counsel, SWRCB addressed the achievement of the MEP standard as follows:

> "*To achieve the MEP standard, municipalities must employ whatever Best Management Practices (BMPs) are technically feasible (i.e., are likely to be effective) and are not cost prohibitive. The major emphasis is on technical feasibility. Reducing pollutants to the MEP means choosing effective BMPs, and rejecting applicable BMPs only where other effective BMPs will serve the same purpose, or the BMPs would not be technically feasible, or the cost would be prohibitive. In selecting BMPs to achieve the MEP standard, the following factors may be useful to consider:*
>
> *a. Effectiveness: Will the BMPs address a pollutant (or pollutant source) of concern?*
> *b. Regulatory Compliance: Is the BMP in compliance with storm water regulations as well as other environmental regulations?*
> *c. Public Acceptance: Does the BMP have public support?*
> *d. Cost: Will the cost of implementing the BMP have a reasonable relationship to the pollution control benefits to be achieved?*
> *e. Technical Feasibility: Is the BMP technically feasible considering soils, geography, water resources, etc?*
>
> *The final determination regarding whether a municipality has reduced pollutants to the maximum extent practicable can only be made by the Regional or State Water Boards, and not by the municipal discharger. If a municipality reviews a lengthy menu of BMPs and chooses to select only a few of the least expensive, it is likely that MEP has not been met. On the other hand, if a municipal discharger employs all applicable BMPs except those where it can show that they are not technically feasible in the locality, or whose cost would exceed any benefit derived, it would have met the standard. Where a choice may be made between two BMPs that should provide generally comparable effectiveness, the discharger may choose the least expensive alternative and exclude the more expensive BMP. However, it would not be acceptable either to reject all BMPs that would address a pollutant source, or to pick a BMP base solely on cost, which would be clearly less effective. In selecting BMPs the municipality must make a serious attempt to comply and practical solutions may not be lightly rejected. In any case, the burden would be on the municipal discharger to show compliance with its permit. After selecting a menu of BMPs, it is the responsibility of the discharger to ensure that all BMPs are implemented."*

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.

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.

NOI – Notice of Intent

Non-Storm Water - All discharges to and from a MS4 that do not originate from precipitation events (i.e., all discharges from a MS4 other than storm water). Non-storm water includes illicit discharges, non-prohibited 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."

Order – Order No. R9-2007-0001 (NPDES No. CAS0108758)

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: "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.

Pollutants of Concern – Pollutants for which water bodies are listed as impaired under CWA section 303(d), pollutants associated with the land use type of a development, and/or pollutants commonly associated with urban runoff. Pollutants commonly associated with urban runoff include total suspended solids; sediment; pathogens (e.g., bacteria, viruses, protozoa); heavy metals (e.g., copper, lead, zinc, and cadmium); petroleum products and polynuclear aromatic hydrocarbons; synthetic organics (e.g., pesticides, herbicides, and PCBs); nutrients (e.g., nitrogen and phosphorus fertilizers); oxygen-demanding substances (decaying vegetation, animal waste, and anthropogenic litter).

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.

Post-Construction BMPs - A subset of BMPs including structural and non-structural controls which detain, retain, filter, or educate to prevent the release of pollutants to surface waters during the final functional life of developments.

Pre-Project or Pre-Development Runoff Conditions (Discharge Rates, Durations, Etc.) – Runoff conditions that exist onsite immediately before the planned development activities occur. This definition is not intended to be interpreted as that period before any human-induces land activities occurred. This definition pertains to redevelopment as well as initial development.

Principal Permittee – County of San Diego

Priority Development Projects - New development and redevelopment project categories listed in Section D.1.d(2) of Order No. R9-2007-0001.

Receiving Waters – Waters of the U.S.

Receiving Water Limitations (RWLs) - Waste discharge requirements issued by the Regional 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; resurfacing and reconfiguring surface parking lots and existing roadways; new sidewalk construction, pedestrian ramps, or bikelane on existing roads; and routine replacement of damaged pavement, such as pothole repair.

Regional Urban Runoff Management Plan (RURMP) – A written description of the specific regional urban runoff management measures and programs that the Copermittees will collectively implement to comply with this Order and ensure that pollutant discharges in urban runoff are reduced to the MEP and do not cause or contribute to a violation of water quality standards.

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 urban runoff pollution by reducing the potential for contamination at the source of pollution. Source control BMPs minimize the contact between pollutants and urban runoff.

Storm Water – Per 40 CFR 122.26(b)(13), means storm water runoff, snowmelt runoff and surface runoff and drainage.

Standard Urban Storm Water Mitigation Plan (SUSMP) – A plan developed to mitigate the impacts of urban runoff from Priority Development Projects.

Third Party Inspectors - Industrial and commercial facility inspectors who are not contracted or employed by a regulatory agency or group of regulatory agencies, such as the Regional Board or Copermittees. The third party inspector is not a regular facility employee self-inspecting their own facility. The third party inspector could be a contractor or consultant employed by a facility or group of businesses to conduct inspections.

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 Water Quality Control Plan, San Diego Basin, Region 9, (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".

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.

Urban Runoff - All flows in a storm water conveyance system and consists of the following components: (1) storm water (wet weather flows) and (2) non-storm water illicit discharges (dry weather flows).

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 Assessment – Assessment conducted to evaluate the condition of non-storm water and storm water discharges, and the water bodies which receive these discharges.

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 - The beneficial uses (e.g., swimming, fishing, municipal drinking water supply, etc.,) of water and the water quality objectives necessary to protect those uses.

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 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 MS4 is always considered to be a 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).

Watershed Urban Runoff Management Plan (WURMP) – A written description of the specific watershed urban runoff management measures and programs that each watershed group of Copermittees will implement to comply with this Order and ensure that pollutant discharges in urban runoff are reduced to the MEP and do not cause or contribute to a violation of water quality standards.

WDRs – Waste Discharge Requirements

Wet Season – October 1 through April 30 of each year.

ATTACHMENT D

SCHEDULED SUBMITTALS SUMMARY

Submittal	Permit Section	Completion Date	Frequency
Submit identification of discharges not to be prohibited and BMPs required for treatment of discharges not prohibited	B.2	365 days after adoption of the Order	One Time
Submit Certified Statement of Adequate Legal Authority	C.2	365 days after adoption of the Order	One Time
Long-Term Effectiveness Assessment	I.5 and J.2.b	210 days prior to Order expiration	One Time
Submit to Principal Permittee(s) individual JURMPs	J.1.a.(1)	Prior to 365 days after adoption of the Order (Principal Permittee specifies date of submittal)	One Time
Principal Permittee submits JURMPs to Regional Board	J.1.a.(2)	365 days after adoption of the Order	One Time
Lead Watershed Permittees submit WURMPs to Principal Permittee	J..1.b.(2)	Prior to 365 days after adoption of the Order (Principal Permittee specifies date of submittal)	One Time
Principal Permittee submits WURMPs to Regional Board	J.1.b.(3)	365 days after adoption of the Order	One Time
Principal Permittee submits RURMP to Regional Board	J.1.c.(2)	365 days after adoption of the Order	One Time
Principal Permittee submits Hydromodification Management Plan workplan	J.2.a.(2)(a)	180 days after adoption of the Order	One Time
Principal Permittee submits Hydromodification Management Plan progress report	J.2.a.(2)(b)	18 months after adoption of the Order	One Time
Principal Permittee submits draft Hydromodification Management Plan	J.2.a.(2)(c)	2 years after adoption of the Order	One Time
Principal Permittee submits final Hydromodification Management Plan	J.2.a.(2)(d)	180 days after receiving comments from Regional Board	One Time
Principal Permittee submits Model SUSMP update	J.2.b	18 months after adoption of the Order	One Time
Copermittees submit local SUSMP updates	J.2.b	365 days after acceptance of updated Model SUSMP	One Time
Principal Permittee submits Report of Waste Discharge and Long-Term Effectiveness Assessment	J.2.c-d	210 days prior to Order expiration	One Time
Principal Permittee submits Notification of Principal Permittee	M	180 days after adoption of the Order	One Time
Principal Permittee submits formal agreement between Copermittees which provides management structure for meeting Order requirements	M.5	180 days after adoption of Order	One Time
Submit to Principal Permittee individual Jurisdictional Urban Runoff Management Program Annual Reports	J.3.a.(1)	Prior to September 30, 2008, and annually thereafter (Principal Permittee specifies date of submittal)	Annually
Principal Permittee submits unified Jurisdictional Urban Runoff Management Program Annual Report to Regional Board	J.3.a.(2)	September 30, 2008, and annually thereafter	Annually
Lead Watershed Permittees submit to Principal Permittee Watershed Urban Runoff Management Program Annual Reports	J.3.b.(3)	Prior to January 31, 2009 and annually thereafter (Principal Permittee specifies date of submittal)	Annually
Principal Permittee submits unified Watershed Urban Runoff Management Program Annual Report to Regional Board	J.3.b.(3)	January 31, 2009 and annually thereafter	Annually
Principal Permittee submits Regional Urban Runoff	J.3.c	January 31, 2009 and	Annually

Submittal	Permit Section	Completion Date	Frequency
Management Program Annual Report to Regional Board		annually thereafter	
Principal Permittee submits description of Receiving Waters Monitoring Program	Monitoring and Reporting Program, III.A.1	September 1, 2007 and annually thereafter	Annually
Principal Permittee submits description of various monitoring program components	Monitoring and Reporting Program, III.A.3	July 1, 2007 and July 1, 2008	Twice
Principal Permittee submits Receiving Waters Monitoring Program Annual Report	Monitoring and Reporting Program, III.A.2	January 31, 2009 and annually thereafter	Annually
Principal Permittee submits interim Receiving Waters Monitoring Program Annual Report	Monitoring and Reporting Program, III.B	January 31, 2007 and January 31, 2008	Twice
Principal Permittee submits unified interim Jurisdictional URMP and Watershed URMP Annual Reports	J.4	January 31, 2007 and January 31, 2008	Twice
Principal Permittee(s) shall submit standardized formats for all reports required under this Order	M.6	180 days after adoption of Order	One Time

RECEIVING WATERS AND URBAN RUNOFF MONITORING AND REPORTING PROGRAM NO. R9-2007-0001

I. PURPOSE

A. This Receiving Waters and Urban Runoff Monitoring and Reporting Program is intended to meet the following goals:

1. Assess compliance with Order No. R9-2007-0001;
2. Measure and improve the effectiveness of the Copermittees' urban runoff management programs;
3. Assess the chemical, physical, and biological impacts to receiving waters resulting from urban runoff discharges;
4. Characterize urban runoff discharges;
5. Identify sources of specific pollutants;
6. Prioritize drainage and sub-drainage areas that need management actions;
7. Detect and eliminate illicit discharges and illicit connections to the MS4; and
8. Assess the overall health of receiving waters.

B. In addition, this Receiving Waters and Urban Runoff Monitoring and Reporting Program is designed to answer the following core management questions:

1. Are conditions in receiving waters protective, or likely to be protective, of beneficial uses?
2. What is the extent and magnitude of the current or potential receiving water problems?
3. What is the relative urban runoff contribution to the receiving water problem(s)?
4. What are the sources of urban runoff that contribute to receiving water problem(s)?
5. Are conditions in receiving waters getting better or worse?

II. MONITORING PROGRAM

A. Receiving Waters Monitoring Program

Each Copermittee shall collaborate with the other Copermittees to develop, conduct, and report on a year round watershed based Receiving Waters Monitoring Program. The monitoring program design, implementation, analysis, assessment, and reporting shall be conducted on a watershed basis for each of the hydrologic units. The monitoring program shall be designed to meet the goals and answer the questions listed in section I above. The monitoring program shall include the following components:

1. MASS LOADING STATION (MLS) MONITORING

a. The following existing mass loading stations shall continue to be monitored: Santa Margarita River,[1] San Luis Rey River, Agua Hedionda Creek, Escondido Creek, San Dieguito River, Penasquitos, Tecolote Creek, San Diego River,

[1] For the Santa Margarita River mass loading station, if Camp Pendleton will not conduct the required monitoring or prevents access for the Copermittees to conduct the required monitoring, the mass loading station location shall be moved to where the County of San Diego has land-use jurisdiction.

Chollas Creek, Sweetwater River, and Tijuana River. The mass loading stations shall be monitored at the frequency identified in Table 1.

Table 1. Monitoring Rotation and Number of Stations in Watersheds

Watershed Management Area	Watershed	Permit Year 1 2007-2008				Permit Year 2 2008-2009				Permit Year 3 2009-2010				Permit Year 4 2010-2011				Permit Year 5 2011-2012			
		MLS	TWAS	ABLM	BA	MLS	TWAS	ABLM	BA	MLS	TWAS	ABLM	BA	MLS	TWAS	ABLM	BA	MLS	TWAS	ABLM	BA
Santa Margarita	Santa Margarita River	1		Implement refined program based on assessment	4	1	Bight '08					Implement refined program based on assessment		1		Implement refined program based on assessment	4			Implement refined program based on assessment	
San Luis Rey	San Luis Rey River	1	2		3	1								1	2		3				
Carlsbad	Buena Vista Creek		1		1										1		1				
	Agua Hedionda Creek	1	1		2	1								1	1		2				
	Escondido Creek	1	1		2	1								1	1		2				
San Dieguito	San Dieguito River	1	2		3	1								1	2		3				
Penasquitos	Penasquitos	1	2		3	1								1	2		3				
Mission Bay	Rose Creek										1		1						1		1
	Tecolote Creek					1				1	1		2					1	1		2
San Diego River	San Diego River					1				1	3		4					1	3		4
San Diego Bay	Chollas Creek	1			1	1				1			1	1			1	1			1
	Sweetwater River					1				1	1		2					1	1		2
	Otay River										1		1						1		1
Tijuana	Tijuana River					1				1	2		3					1	1		2

b. Each mass loading station to be monitored in a given year shall be monitored twice during wet weather events and twice during dry weather flow events. The exception is the 2008-2009 monitoring year, which shall include monitoring of all mass loading stations for one wet weather flow event only if the Copermittees participate in Bight '08.

c. Each mass loading station shall be monitored for the first wet weather event of the season which meets the USEPA's criteria as described in 40 CFR 122.21(g)(7). Monitoring of the second wet weather event shall be conducted after February 1. Dry weather mass loading monitoring events shall be sampled in September or October prior to the start of the wet weather season and in May or June after the end of the wet weather season. If flows are not evident in September or October, then sampling shall be conducted during non-rain events in the wet weather season.

d. Mass loading sampling and analysis protocols shall be consistent with 40 CFR 122.21(g)(7)(ii) and with the USEPA Storm Water Sampling Guidance Document (EPA 833-B-92-001). If practicable, the protocols for mass loading sampling and analysis should be SWAMP comparable. If the mass loading sampling and analysis are determined to be impracticable with the SWAMP standards, the Copermittees should provide explanation and discussion to this effect in the Receiving Waters and Urban Runoff Monitoring Annual Report. Wet weather samples shall be flow-weighted composites, collected for the duration of the entire runoff event, where practical. Where such monitoring is not practical, such as for large watersheds with significant groundwater recharge flows, composites shall be collected at a minimum during the first 3 hours of flow. Dry weather event samples shall be flow-weighted composites, collected for a time duration adequate to be representative of changes in pollutant concentrations and runoff flows which may occur over a typical 24 hour period. A minimum of 3 sample aliquots, separated by a minimum of 15 minutes, shall be taken for each hour of monitoring, unless the Regional Board Executive Officer approves an alternate protocol. Automatic samplers shall be used to collect samples from mass loading stations. Grab samples shall be taken for temperature, pH, specific conductance, biochemical oxygen demand, oil and grease, total coliform, fecal coliform, and enterococcus.

e. Copermittees shall measure or estimate flow rates and volumes for each mass loading station sampling event in order to determine mass loadings of pollutants. Data from nearby USGS gauging stations may be utilized, or flow rates may be estimated in accordance with the USEPA Storm Water Sampling Guidance Document (EPA-833-B-92-001), Section 3.2.1.

f. In the event that the required number of events are not sampled during one monitoring year at any given station, the Copermittees shall submit, with the subsequent Receiving Waters Monitoring Annual Report, a written explanation for a lack of sampling data, including streamflow data from the nearest USGS gauging station.

g. The following constituents shall be analyzed for each monitoring event at each station:

Table 2. Analytical Testing for Mass Loading and Temporary Watershed Assessment Stations

Conventionals, Nutrients, Hydrocarbons	**Pesticides**	**Metals (Total and Dissolved)**	**Bacteriological**
Total Dissolved Solids	Diazinon	Antimony	Total Coliform
Total Suspended Solids	Chlorpyrifos	Arsenic	Fecal Coliform
Turbidity	Malathion	Cadmium	Enterococcus
Total Hardness		Chromium	
pH		Copper	
Specific Conductance		Lead	
Temperature		Nickel	
Dissolved Phosphorus		Selenium	
Nitrite		Zinc	
Nitrate			
Total Kjeldahl Nitrogen			
Ammonia			
Biological Oxygen Demand, 5-day			
Chemical Oxygen Demand			
Total Organic Carbon			
Dissolved Organic Carbon			
Methylene Blue Active Substances			
Oil and Grease			

h. In addition to the constituents listed in Table 2 above, monitoring stations in the Chollas Creek watershed shall also analyze samples for polychlorinated biphenyls (PCBs), Chlordane, and polycyclic aromatic hydrocarbons (PAHs) for each monitoring event.

i. The following toxicity testing shall be conducted for each monitoring event at each station as follows:
   (1) 7-day chronic test with the cladoceran *Ceriodaphnia dubia* (USEPA protocol EPA-821-R-02-013).
   (2) Chronic test with the freshwater algae *Selenastrum capricornutum* (USEPA protocol EPA-821-R-02-013).
   (3) Acute survival test with amphipod *Hyalella azteca* (USEPA protocol EPA-821-R-02-012).

j. The presence of acute toxicity shall be determined in accordance with USEPA protocol (EPA-821-R-02-012). The presence of chronic toxicity shall be determined in accordance with USEPA protocol (EPA-821-R-02-013).

k. The Copermittees shall collaborate to develop and implement a program to assess the presence of trash (anthropogenic litter) in receiving waters. The program shall collect and evaluate trash data in conjunction with collection and evaluation of analytical data. This monitoring program shall be implemented within each watershed and shall begin no later than the 2007-2008 monitoring year.

2. TEMPORARY WATERSHED ASSESSMENT STATION (TWAS) MONITORING

a. The minimum number of temporary watershed assessment stations to be monitored in a given monitoring year is identified in Table 1. The number of stations located within each watershed may change from the number identified in Table 1, provided the total number of stations monitored in a given year is not reduced below the minimum number of stations identified in Table 1. The

temporary watershed assessment stations shall be monitored and located according to a systematic plan which:

(1) Ensures that the Copermittees' Receiving Waters Monitoring Program most effectively answers questions 1-5 of section I.B above.
(2) Provides statistically useful information.
(3) Identifies the extent and magnitude of receiving water problems within each watershed.
(4) Provides spatial coverage of each watershed.
(5) Monitors previously un-assessed sub-watershed areas.
(6) Focuses on specific areas of concern and high priority areas.
(7) Provides adequate information to assess the effectiveness of implemented programs and control measures in reducing discharged pollutant loads and improving urban runoff and receiving water quality.

b. For each temporary watershed assessment station identified to be monitored in a given year, the station shall be monitored twice during wet weather events and twice during dry weather flow events.

c. Temporary watershed assessment stations shall be monitored in the same manner as the mass loading stations in accordance with the monitoring protocols and requirements outlined in sections II.A.1.c-k above.

3. BIOASSESSMENT (BA) MONITORING

a. The minimum number of bioassessment stations to be monitored in each watershed in a given monitoring year is identified in Table 1. Bioassessment stations shall include an adequate number of reference stations, with locations of reference stations identified according to protocols outlined in "A Quantitative Tool for Assessing the Integrity of Southern Coastal California Streams," by Ode, et al. 2005.[2]

b. Bioassessment stations shall be collocated with both mass loading stations and temporary watershed assessment stations where feasible.

c. Bioassessment stations to be monitored in a given monitoring year shall be monitored in May or June (to represent the influence of wet weather on the communities) and September or October (to represent the influence of dry weather flows on the communities). The timing of monitoring of bioassessment stations shall coincide with dry weather monitoring of mass loading and temporary watershed assessment stations.

d. Monitoring of bioassessment stations shall utilize the targeted riffle composite approach, as specified in the Surface Water Ambient Monitoring Program (SWAMP) Quality Assurance Management Plan (QAMP), as amended.

[2] Ode, et al. 2005. "A Quantitative Tool for Assessing the Integrity of Southern Coastal California Streams." Environmental Management. Vol. 35, No. 1, pp. 1-13.

e. Monitoring of bioassessment stations shall incorporate assessment of periphyton in addition to macroinvertebrates, using the USEPA's 1999 Rapid Bioassessment Protocols for Use in Wadeable Streams and Rivers.[3]

f. Bioassessment analysis procedures shall include calculation of the Index of Biotic Integrity (IBI) for benthic macroinvertebrates for all bioassessment stations, as outlined in "A Quantitative Tool for Assessing the Integrity of Southern Coastal California Streams," by Ode, et al. 2005.

g. A professional environmental laboratory shall perform all sampling, laboratory, quality assurance, and analytical procedures.

4. FOLLOW-UP ANALYSIS AND ACTIONS

When results from the chemistry, toxicity, and bioassessment monitoring described above indicate urban runoff-induced degradation at a mass loading or temporary watershed assessment station, Copermittees within the watershed shall evaluate the extent and causes of urban runoff pollution in receiving waters and prioritize and implement management actions to eliminate or reduce sources. Toxicity Identification Evaluations (TIEs) shall be conducted to determine the cause of toxicity as outlined in Table 3 below. Other follow-up activities which shall be conducted by the Copermittees are also identified in Table 3. Once the cause of toxicity has been identified by a TIE, the Copermittees shall perform source identification projects as needed and implement the measures necessary to reduce the pollutant discharges and abate the sources causing the toxicity.

Table 3. Triad Approach to Determining Follow-Up Actions

	Chemistry[4]	**Toxicity[5]**	**Bioassessment[6]**	**Action**
1.	Persistent exceedance of water quality objectives (high frequency constituent of concern identified)	Evidence of persistent toxicity	Indications of alteration	Conduct TIE to identify contaminants of concern, based on TIE metric. Address upstream sources as a high priority.
2.	No persistent exceedances of water quality objectives	No evidence of persistent toxicity	No indications of alteration	No action necessary.

[3] USEPA, 1999. Rapid Bioassessment Protocols for Use in Wadeable Streams and Rivers. EPA-841-B-99-002.
[4] Persistent exceedance shall mean exceedances of established water quality objectives, benchmarks, or action levels by a pollutant known to cause toxicity for two wet weather and/or two dry weather samples in a given year.
[5] Toxicity shall mean when the Lowest Observed Effect Concentration (LOEC) (for chronic toxicity tests) or median lethal concentration (LC_{50}) (for acute toxicity tests) for any given species is less than or equal to 100% of the test sample and observed effects are significantly different from the control. Evidence of persistent toxicity shall mean toxicity to a specific test organism in more than 50% of the samples taken for a given location during a given monitoring year. When a monitoring event has the potential to indicate evidence of persistent toxicity (e.g. the third event of four monitoring events), sufficient samples shall be collected in order to conduct any TIEs that may be required. When a sample collected in order to conduct a TIE does not result in mortality or exhibit a toxic effect in at least 50% of the applicable test organisms in the 100% storm water sample, the TIE may be conducted with a sample collected during the next monitoring event.
[6] Indications of alteration shall mean an IBI score of Poor or Very Poor.

	Chemistry[4]	Toxicity[5]	Bioassessment[6]	Action
3.	Persistent exceedance of water quality objectives (high frequency constituent of concern identified)	No evidence of persistent toxicity	No indications of alteration	Address upstream sources as a low priority.
4.	No persistent exceedances of water quality objectives	Evidence of persistent toxicity	No indications of alteration	Conduct TIE to identify contaminants of concern, based on TIE metric. Address upstream sources as medium priority.
5.	No persistent exceedances of water quality objectives	No evidence of persistent toxicity	Indications of alteration	No action necessary to address toxic chemicals. Address potential role of urban runoff in causing physical habitat disturbance.
6.	Persistent exceedance of water quality objective (high frequency constituent of concern identified)	Evidence of persistent toxicity	No indications of alteration	If chemical and toxicity tests indicate persistent degradation, conduct TIE to identify contaminants of concern, based on TIE metric and address upstream source as a medium priority.
7.	No persistent exceedances of water quality objectives	Evidence of persistent toxicity	Indications of alteration	Conduct TIE to identify contaminants of concern, based on TIE metric. Address upstream sources as a high priority. Address potential role of urban runoff causing physical habitat disturbance.
8.	Persistent exceedance of water quality objectives objective (high frequency constituent of concern identified)	No evidence of persistent toxicity	Indications of alteration	Address upstream source as a high priority.

5. AMBIENT BAY AND LAGOON MONITORING (ABLM)

   a. Ambient Bay and Lagoon Monitoring shall be conducted according to the schedule identified in Table 1.

   b. If results of the Ambient Bay and Lagoon Monitoring assessment indicate a general relationship and/or linkage between conditions in bays/lagoons/estuaries with conditions at mass loading stations, then monitoring shall be conducted at the following locations: Santa Margarita River Estuary, Oceanside Harbor, San Luis Rey Estuary, Buena Vista Lagoon, Agua Hedionda Lagoon, Batiquitos Lagoon, San Elijo Lagoon, San Dieguito Lagoon, Los Penasquitos Lagoon, Mission Bay, Sweetwater River Estuary, and Tijuana River Estuary. This monitoring shall be designed to most effectively answer each of questions 1-5 of section I.B above as they pertain to bays/lagoons/estuaries.

c. If results of the Ambient Bay and Lagoon Monitoring assessment do not indicate a relationship and/or linkage between conditions in bays/lagoons/estuaries with conditions at mass loading stations, then monitoring shall be conducted for special investigations of the bays/lagoons/estuaries. These special investigations shall be designed to most effectively answer each of questions 1-5 of section I.B above as they pertain to bays/lagoons/estuaries, with an emphasis on answering question 4.

d. Ambient Bay and Lagoon Monitoring shall utilize the triad approach, analyzing chemistry, toxicity, and benthic infauna data.

e. Ambient Bay and Lagoon Monitoring shall include a water column monitoring component as necessary to supply information needed for the development, implementation, and assessment of Total Maximum Daily Loads (TMDLs).

6. COASTAL STORM DRAIN MONITORING

The Copermittees shall collaborate to develop and implement a coastal storm drain monitoring program. The monitoring program shall include:

a. Identification of coastal storm drains which discharge to coastal waters.

b. Monthly sampling of all flowing coastal storm drains identified in section II.A.6.a for total coliform, fecal coliform, and enterococcus.[7] Where flowing coastal storm drains are discharging to coastal waters, paired samples from the storm drain discharge and coastal water (25 yards down current of the discharge) shall be collected. If flowing coastal storm drains are not discharging to coastal waters, only the storm drain discharge needs to be sampled.

(1) Frequency of sampling of coastal storm drains may be reduced to every other month if the paired coastal storm drain data:

(a) Exhibits three consecutive storm drain samples with all bacterial indicators below the Copermittees' sampling frequency reduction criteria, as the sampling frequency reduction criteria was developed under Order No. 2001-01.
(b) Exhibits that the three consecutive samples discussed in (a) above are paired with receiving water samples that do not exceed Assembly Bill (AB) 411 or Basin Plan standards.
(c) Exhibits that less than 20% of the storm drain samples were above any of the sampling frequency reduction criteria during the previous year.

(2) The Copermittees shall notify the Regional Board of any coastal storm drains eligible for sampling frequency reduction prior to October 1 of each year. Sampling frequency reduction shall not occur prior to Regional Board

[7] Coastal storm drains where sampler safety, habitat impacts from sampling, or inaccessibility are issues need not be sampled. Such coastal storm drains shall be added to the Copermittee's dry weather field screening and analytical monitoring program where feasible.

notification.

(3) Re-sampling shall be implemented within one business day of receipt of analytical results for coastal storm drains where:

(a) Both storm drain and receiving water samples exceed AB 411 or Basin Plan standards for any bacterial indicator.
(b) The storm drain sample exceeds 95th percentile observations of the previous year's data for any bacterial indicator.

(4) If re-sampling conducted under section (3) above exhibits continued exceedances of a AB 411 or Basin Plan standards in either the storm drain or receiving water, investigations of sources of bacterial contamination shall commence within one business day of receipt of analytical results.

(5) Investigations of sources of bacterial contamination shall occur immediately if evidence of abnormally high flows, sewage releases, restaurant discharges, and/or similar evidence is observed during sampling.

(6) Exceedances of public health standards for bacterial indicators shall be reported to the County Department of Environmental Health as soon as possible.

7. PYRETHROIDS MONITORING

The Copermittees shall collaborate to develop and implement a monitoring program to measure and assess the presence of pyrethroids in receiving waters. This monitoring program shall be implemented within each watershed and shall begin no later than the 2007-2008 monitoring year.

B. Urban Runoff Monitoring

Each Copermittee shall collaborate with the other Copermittees to develop, conduct, and report on a year round watershed based Urban Runoff Monitoring Program. The monitoring program design, implementation, analysis, assessment, and reporting shall be conducted on a watershed basis for each of the hydrologic units. The monitoring program shall be designed to meet the goals and answer the questions listed in section I above. The monitoring program shall include the following components

1. MS4 OUTFALL MONITORING

The Copermittees shall collaborate to develop and implement a monitoring program to characterize pollutant discharges from MS4 outfalls in each watershed during wet and dry weather. The program shall include rationale and criteria for selection of outfalls to be monitored. The program shall at a minimum include collection of samples for those pollutants causing or contributing to violations of water quality standards within the watershed. This monitoring program shall be implemented within each watershed and shall begin within the 2007-2008 monitoring year.

2. SOURCE IDENTIFICATION MONITORING

The Copermittees shall collaborate to develop and implement a monitoring program to identify sources of discharges of pollutants causing the priority water quality problems within each watershed. The monitoring program shall include focused monitoring which moves upstream into each watershed as necessary to identify sources. The monitoring program shall use source inventories and "Threat to Water Quality" analysis to guide monitoring efforts. This monitoring program shall be implemented within each watershed and shall begin no later than the 2008-2009 monitoring year.

3. DRY WEATHER FIELD SCREENING AND ANALYTICAL MONITORING

As part of its Jurisdictional Urban Runoff Management Program, each Copermittee shall update as necessary its dry weather field screening and analytical monitoring program to meet or exceed the requirements of this section. Dry weather analytical and field screening monitoring consists of (1) field observations; (2) field screening monitoring; and (3) analytical monitoring at selected stations. The Dry Weather Field Screening and Analytical Monitoring program is not required to be SWAMP comparable. Each Copermittee's program shall be designed to detect and eliminate illicit connections and illegal discharges to the MS4 using frequent, geographically widespread dry weather discharge monitoring and follow-up investigations. Each Copermittee shall conduct the following dry weather field screening and analytical monitoring tasks:

a. Select Dry Weather Field Screening and Analytical Monitoring Stations

Based upon a review of its past Dry Weather Monitoring Program, each Copermittee shall select dry weather field screening and analytical monitoring stations within its jurisdiction. No more than 500 dry weather field screening and analytical monitoring stations (excluding alternate stations) need to be selected by any individual Copermittee for any given year. Stations shall be selected according to one of the following methods:

(1) Stations shall be either major outfalls or other outfall points (or any other point of access such as manholes) randomly located throughout the MS4 by placing a grid over a drainage system map and identifying those cells of the grid which contain a segment of the MS4 or major outfall. This random selection has to use the following guidelines and criteria:

(a) A grid system consisting of perpendicular north-south and east-west lines spaced ¼ mile apart shall be overlayed on a map of the MS4, creating a series of cells;
(b) All cells that contain a segment of the MS4 shall be identified and one dry weather analytical monitoring station shall be selected in each cell.
(c) Each Copermittee shall determine alternate stations to be sampled in place of selected stations that do not have flow.

(2) Stations may be selected non-randomly provided adequate coverage of the entire MS4 system is ensured and that the selection of stations meets,

exceeds, or provides equivalent coverage to the requirements given above. The dry weather analytical and field screening monitoring stations shall be established using the following guidelines and criteria:

(a) Stations should be located downstream of any sources of suspected illegal or illicit activity;
(b) Stations shall be located to the degree practicable at the farthest manhole or other accessible location downstream in the system within each cell;
(c) Hydrological conditions, total drainage area of the site, traffic density, age of the structures or buildings in the area, history of the area, and land use types shall be considered in locating stations;
(d) Each Copermittee shall determine alternate stations to be sampled in place of selected stations that do not have flow.

b. Complete MS4 Map

Each Copermittee shall clearly identify each dry weather field screening and analytical monitoring station on its MS4 Map as either a separate GIS layer or a map overlay hereafter referred to as a Dry Weather Field Screening and Analytical Stations Map. Each Copermittee shall confirm that each drainage area within its jurisdiction contains at least one station.

c. Develop Dry Weather Field Screening and Analytical Monitoring Procedures

Each Copermittee shall develop and/or update written procedures for dry weather field screening and analytical monitoring (for analytical monitoring only, these procedures must be consistent with 40 CFR part 136), including field observations, monitoring, and analyses to be conducted. At a minimum, the procedures must meet the following guidelines and criteria:

(1) Determining Sampling Frequency: Dry weather field screening and analytical monitoring shall be conducted at each identified station at least once between May 1st and September 30th of each year or as often as the Copermittee determines is necessary to comply with the requirements of section D.4 of Order No. R9-2007-0001.

(2) If flow or ponded runoff is observed at a dry weather field screening or analytical monitoring station and there has been at least seventy-two (72) hours of dry weather, make observations and collect at least one (1) grab sample. Record general information such as time since last rain, quantity of last rain, site descriptions (i.e., conveyance type, dominant watershed land uses), flow estimation (i.e., width of water surface, approximate depth of water, approximate flow velocity, flow rate), and visual observations (i.e., odor, color, clarity, floatables, deposits/stains, vegetation condition, structural condition, and biology).

(3) At a minimum, collect samples for analytical laboratory analysis of the following constituents for at least twenty five percent (25%) of the dry weather monitoring stations where water is present:

(a) Total Hardness
(b) Oil and Grease
(c) Diazinon and Chlorpyrifos
(d) Cadmium (Dissolved)
(e) Lead (Dissolved)
(f) Zinc (Dissolved)
(g) Copper (Dissolved)
(h) Enterococcus bacteria[8]
(i) Total Coliform bacteria[8]
(j) Fecal Coliform bacteria[8]

(4) At a minimum, conduct field screening analysis of the following constituents at all dry weather monitoring stations where water is present:

(a) Specific conductance (calculate estimated Total Dissolved Solids).
(b) Turbidity
(c) pH
(d) Reactive Phosphorous
(e) Nitrate Nitrogen
(f) Ammonia Nitrogen
(g) Surfactants (MBAS)

(5) If the station is dry (no flowing or ponded runoff), make and record all applicable observations and select another station from the list of alternate stations for monitoring.

(6) Develop and/or update criteria for dry weather field screening and analytical monitoring results whereby exceedance of the criteria will require follow-up investigations to be conducted to identify and eliminate the source causing the exceedance of the criteria.

(7) Assess the presence of trash in receiving waters and urban runoff at each dry weather field screening or analytical monitoring station. Assessments of trash shall provide information on the spatial extent and amount of trash present, as well as the nature of the types of trash present.

(8) Dry weather field screening and analytical monitoring stations identified to exceed dry weather monitoring criteria for any constituents shall continue to be screened in subsequent years.

(9) Develop and/or update procedures for source identification follow up investigations in the event of exceedance of dry weather field screening and analytical monitoring result criteria. These procedures shall be consistent with procedures required in section D.4.d of Order No. R9-2007-0001.

(10) Develop and/or update procedures to eliminate detected illicit discharges and connections. These procedures shall be consistent with each Copermittees

[8] Colilert and Enterolert may be used as alternative methods with Fecal Coliform determined by calculations.

Illicit Discharge and Elimination component of its Jurisdictional Urban Runoff Management Plan as discussed in section D.4 of Order No. R9-2007-0001.

d. Conduct Dry Weather Field Screening and Analytical Monitoring

The Copermittees shall commence implementation of dry weather field screening and analytical monitoring under the requirements of this Order by May 1, 2008. Each Copermittee shall conduct dry weather analytical and field screening monitoring in accordance with its storm water conveyance system map and dry weather analytical and field screening monitoring procedures as described in section II.B.3 above. If monitoring indicates an illicit connection or illegal discharge, conduct the follow-up investigation and elimination activities as described in submitted dry weather field screening and analytical monitoring procedures and sections D.4.d and D.4.e of Order No. R9-2007-0001. Until the dry weather field screening and analytical monitoring program is implemented under the requirements of this Order, each Copermittee shall continue to implement dry weather field screening and analytical monitoring as it was most recently implemented pursuant to Order No. 2001-01.

C. Regional Monitoring Program

1. The Copermittees shall participate and coordinate with federal, state, and local agencies and other dischargers in development and implementation of a regional watershed monitoring program as directed by the Executive Officer.

2. Bight '08

a. During the 2008-2009 monitoring year (Permit Year 2), the Copermittees may participate in the Bight '08 study. The Copermittees shall ensure that such participation results in collection and analysis of data useful in addressing the goals and management questions of the Receiving Waters Monitoring Program. Any participation shall include the contribution of all funds not otherwise spent on full implementation of mass loading station, temporary watershed assessment station, ambient bay and lagoon, and bioassessment monitoring. All other monitoring shall continue during the 2008-2009 monitoring year (Permit Year 2) as required.

b. If the Copermittees do not participate in Bight '08, mass loading station, temporary watershed assessment station, ambient bay an lagoon, and bioassessment monitoring shall be conducted as follows:

(1) Permit Year 3 (2009-2010) monitoring shall be conducted in Permit Year 2 (2008-2009) (see Table 1).
(2) Permit Year 4 (2010-2011) monitoring shall be conducted in Permit Year 3 (2009-2010) (see Table 1).
(3) Permit Year 5 (2011-2012) monitoring shall be conducted in Permit Year 4 (2010-2011).

(4) Permit Year 1 (2007-2008) monitoring shall be conducted in Permit Year 5 (2011-2012).

c. If the Copermittees partially participate in Bight '08, monitoring shall be conducted as described in section II.C.2.b above, with the exception of any monitoring offset by the contribution of funds to Bight '08.

D. Special Studies

1. TMDL MONITORING

   a. All monitoring shall be conducted as required in Investigation Order No. R9-2004-0277 for Chollas Creek.

2. REGIONAL HARBOR MONITORING

   a. The Copermittees which discharge to harbors shall participate in the development and implementation of the Regional Harbor Monitoring Program.

3. The Copermittees shall conduct special studies, including any monitoring required for TMDL development and implementation, as directed by the Executive Officer.

E. Monitoring Provisions

All monitoring activities shall meet the following requirements:

1. Where procedures are not otherwise specified in this Receiving Waters Monitoring and Reporting Program (e.g., Dry Weather Field Screening and Analytical Monitoring), 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 (SWRCB).

2. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity [40 CFR 122.41(j)(1)].

3. The Copermittees shall retain records of all monitoring information, including all calibration and maintenance of monitoring instrumentation, copies of all reports required by this Order, and records of all data used to complete the Report of Waste Discharge and application for this Order, 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 Regional Board or USEPA at any time and shall be extended during the course of any unresolved litigation regarding this discharge. [40 CFR 122.41(j)(2), CWC section 13383(a)]

4. Records of monitoring information shall include [40 CFR 122.41(j)(3)]:

   a. The date, exact place, and time of sampling or measurements;
   b. The individual(s) who performed the sampling or measurements;
   c. The date(s) analyses were performed;

d. The individual(s) who performed the analyses;
e. The analytical techniques or methods used; and
f. The results of such analyses.

5. All sampling, sample preservation, and analyses must be conducted according to test procedures approved under 40 CFR part 136, unless other test procedures have been specified in this Receiving Waters Monitoring and Reporting Program or approved by the Executive Officer [40 CFR 122.41(j)(4)].

6. The CWA provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this Order shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than two years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than $20,000 per day of violation, or by imprisonment of not more than four years, or both. [40 CFR 122.41(j)(5)]

7. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this Receiving Waters Monitoring and Reporting Program. [40 CFR 122.41(l)(4)(iii)]

8. All chemical, bacteriological, and toxicity analyses shall be conducted at a laboratory certified for such analyses by the California Department of Health Services or a laboratory approved by the Executive Officer.

9. For priority toxic pollutants that are identified in the California Toxics Rule (CTR) (65 Fed. Reg. 31682), the Copermittees shall instruct its 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 with procedures set forth in 40 CFR 136, the lowest quantifiable concentration of the lowest calibration standard analyzed by a specific analytical procedure (assuming that all the method specified sample weights, volumes, and processing steps have been followed) may be used instead of the ML listed in Appendix 4 of the SIP. The Copermittee must submit documentation from the laboratory to the Regional Board for approval prior to raising the ML for any priority toxic pollutant.

10. The Regional Board Executive Officer or the Regional Board may make revisions to this Receiving Waters and Urban Runoff Monitoring and Reporting Program at any time during the term of Order No. R9-2007-0001, and may include a reduction or increase in the number of parameters to be monitored, locations monitored, the frequency of monitoring, or the number and size of samples collected.

11. The Clean Water Act 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 six

months per violation, or by both. [40 CFR 122.41(k)(2)]

12. Monitoring shall be conducted according the USEPA test procedures approved under 40 CFR 136, "Guidelines Establishing Test Procedures for Analysis of Pollutants under the Clean Water Act" as amended, unless other test procedures have been specified in this Receiving Waters and Urban Runoff Monitoring and Reporting Program, in Order No. R9-2007-0001, or by the Executive Officer.

13. If the discharger monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR part 136, unless otherwise specified in the Order, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the reports requested by the Regional Board. [40 CFR 122.41(l)(4)(ii)]

III. REPORTING PROGRAM

A. Monitoring Reporting

1. The Principal Permittee shall submit a description of the Receiving Waters and Urban Runoff Monitoring Program to be implemented for every monitoring year. The submittals shall begin on September 1, 2007, and continue every year thereafter. The submittals shall describe all monitoring to be conducted during the upcoming monitoring year. For example, the September 1, 2007 submittal shall describe the monitoring to be conducted from October 1, 2007 through September 30, 2008.

   If the Copermittees participate in Bight '08, their submittal for the 2008-2009 monitoring year shall describe the monitoring to be conducted for Bight '08 and exhibit how the monitoring will result in collection and analysis of data useful in addressing the goals and management questions of the Receiving Waters and Urban Runoff Monitoring Program.

2. The Principal Permittee shall submit the Receiving Waters and Urban Runoff Monitoring Annual Report to the Regional Board on January 31 of each year, beginning on January 31, 2009. Receiving Waters and Urban Runoff Monitoring Annual Reports shall meet the following requirements:

   a. Annual monitoring reports shall include the data/results, methods of evaluating the data, graphical summaries of the data, and an explanation/discussion of the data for each monitoring program component.

   b. Annual monitoring reports shall include a watershed-based analysis of the findings of each monitoring program component. Each watershed-based analysis shall include:

      (1) Identification and prioritization of water quality problems within each watershed.
      (2) Identification and description of the nature and magnitude of potential sources of the water quality problems within each watershed.
      (3) Exhibition of pollutant load and concentration increases or decreases at each mass loading and temporary watershed assessment station.

(4) Evaluation of pollutant loads and concentrations at mass loading and temporary watershed assessment stations with respect to land use, population, sources, and other characteristics of watersheds using tools such as multiple linear regression, factor analysis, and cluster analysis.
(5) Identification of links between source activities/conditions and observed receiving water impacts.
(6) Identification of recommended future monitoring to identify and address sources of water quality problems.
(7) Results and discussion of any TIE conducted, together with actions that will be implemented to reduce the discharge of pollutants and abate the sources causing the toxicity.

c. Annual monitoring reports shall include a detailed description of all monitoring conducted under Investigation Order No. R9-2004-0277 for Chollas Creek. Annual monitoring reports shall also include all information required by Investigation Order No. R9-2004-0277.

d. Annual monitoring reports shall include discussions for each watershed which answer each of the management questions listed in section I.B of this Receiving Waters Monitoring and Reporting Program.

e. Annual monitoring reports shall identify how each of the goals listed in section I.A of this Receiving Waters Monitoring and Reporting Program has been addressed by the Copermittees' monitoring.

f. Annual monitoring reports shall include identification and analysis of any long-term trends in storm water or receiving water quality. Trend analysis shall use nonparametric approaches, such as the Mann-Kendall test, including exogenous variables in a multiple regression model, and/or using a seasonal nonparametric trend model, where applicable.

g. Annual monitoring reports shall provide an estimation of total pollutant loads (wet weather loads plus dry weather loads) due to urban runoff for each of the watersheds specified in Table 4 of Order No. R9-2007-0001.

h. Annual monitoring reports shall for each monitoring program component listed above, include an assessment of compliance with applicable water quality standards.

i. Annual monitoring reports shall describe monitoring station locations by latitude and longitude coordinates, frequency of sampling, quality assurance/quality control procedures, and sampling and analysis protocols.

j. Annual monitoring reports shall use a standard report format and shall include the following:

(1) A stand alone comprehensive executive summary addressing all sections of the monitoring report;
(2) Comprehensive interpretations and conclusions; and

(3) Recommendations for future actions.

k. All monitoring reports submitted to the Principal Permittee or the Regional Board shall contain the certified perjury statement described in Attachment B of Order No. R9-2007-0001.

l. Annual monitoring reports shall be reviewed prior to submittal to the Regional Board by a committee (consisting of no less than three members). All review comments shall also be submitted to the Regional Board.

m. Annual monitoring reports shall be submitted in both electronic and paper formats.

3. The Principal Permittee shall submit by July 1, 2007 a detailed description of the monitoring programs to be implemented under requirements II.A.1.k, II.A.7, and II.B.3.c.(7) of Receiving Waters and Urban Runoff Monitoring and Reporting Program No. R9-2007-0001. The Principal Permittee shall submit by July 1, 2008, a detailed description of the monitoring programs to be implemented under requirement II.B.1 and II.B.2 of Receiving Waters and Urban Runoff Monitoring and Reporting Program No. R9-2007-0001. The description shall identify and provide the rationale for the constituents monitored, locations of monitoring, frequency of monitoring, and analyses to be conducted with the data generated.

4. By January 31, 2010, the City of San Diego shall submit a report which evaluates the data and assumptions used to estimate the WLA to Shelter Island Yacht Basin of 30 kg Cu/year. The report shall evaluate if any changes have occurred in the watershed which could cause or contribute to a higher copper urban runoff discharge and any actions necessary to address these changes. The report shall be an attachment to the Watershed Urban Runoff Management Program Annual Report for the San Diego Bay watershed.

5. Monitoring programs and reports shall comply with section II.E of Receiving Waters and Urban Runoff Monitoring and Reporting Program No. R9-2007-0001 and Attachment B of Order No. R9-2007-0001.

6. Following completion of an annual cycle of monitoring in October, the Copermittees shall make the monitoring data and results available to the Regional Board at the Regional Board's request.

B. Interim Reporting Requirements

For the October 2005-October 2006 and October 2006-October 2007 monitoring periods, the Principal Permittee shall submit the Receiving Waters Monitoring Annual Reports on January 31, 2007 and January 31, 2008, respectively. The Receiving Waters Monitoring Annual Report shall address the monitoring conducted to comply with the requirements of Order No. 2001-01.

Exhibit 2

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

IN THE MATTER OF:	)	**COMPLAINT NO. R9-2009-0089**
	)	**FOR**
COUNTY OF SAN DIEGO	)	**ADMINISTRATIVE CIVIL LIABILITY**
MUNICIPAL SEPARATE STORM	)	
SEWER SYTEM	)	**VIOLATIONS OF**
	)	**ORDER NO. R9-2007-0001**

THE COUNTY OF SAN DIEGO IS HEREBY NOTIFIED THAT:

1. The County of San Diego is alleged to have violated Water Code section 13385(a)(2) for which the California Regional Water Quality Control Board, San Diego Region (Regional Board) may impose civil liability pursuant to Water Code section 13385(c)(1).

2. On January 24, 2007, the Regional Board adopted Order No. R9-2007-0001, *NPDES No. CAS0108758, Waste Discharge Requirements For Discharges Of Urban Runoff From The Municipal Separate Storm Sewer Systems (MS4s) Draining The Watersheds Of The County Of San Diego, The Incorporated Cities Of San Diego County, The San Diego Unified Port District, and The San Diego County Regional Airport Authority.* The County is a named Copermittee to Order No. R9-2007-0001.

3. The County owns and operates a municipal separate storm sewer system through which it discharges urban runoff into waters of the United States within the San Diego Region pursuant to Order No. R9-2007-0001.

4. Order No. R9-2007-0001, Provision D.2.a.(1) requires the County to do the following: "Within 365 days of adoption of this Order, each Copermittee shall review and update its grading ordinances and other ordinances as necessary to achieve full compliance with this Order, including requirements for the implementation of all designated BMPs and other measures." On December 12, 2007, the Regional Board adopted Addendum No. 1 to Order No. R9-2007-0001 granting the Copermittees' request for an additional 60 days to update their ordinances due to the regional wildfires of November 2007. Therefore, the ordinance review and update was to be completed no later than March 23, 2008.

5. Order No. R9-2007-0001 Attachment C, Definitions, defines "Wet Season" as "October 1 through April 30 of each year." "Wet Season" and "Rainy Season" are used interchangeably throughout the permit.

6. Order No. R9-2007-0001, Provision D.2.c.(3) requires the County to do the following: "Each Copermittee shall implement, or require the implementation of, the designated minimum BMPs and any additional measures necessary to

comply with this Order at each construction site within its jurisdiction year round. However, BMP implementation requirements can vary based on Wet and Dry Seasons. Dry Season BMP implementation must plan for and address rain events that may occur during the Dry Season. Provision D.2.c.(1)(b)(iii) states that "[s]lope stabilization on all inactive slopes during the Rainy Season and during rain events in the Dry Season" is one of the designated minimum set of BMPs at construction sites.

7. Order No. R9-2007-0001, Provision D.2.d.(1-3) requires the County to do the following:

"(1) During the Wet Season, each Copermittee shall inspect at least biweekly (every two weeks), all construction sites within its jurisdiction meeting the following criteria:

(a) All sites 50 acres or more in size and grading will occur during the Wet Season;

(b) All sites 1 acre or more, and tributary to a CWA section 303(d) water body segment impaired for sediment or within or directly adjacent to or discharging directly to a receiving water within an ESA; and

(c) Other sites determined by the Copermittees or the Regional Board as a significant threat to water quality. In evaluating threat to water quality, the following factors shall be considered:

i. soil erosion potential;
ii. site slope;
iii. project size and type;
iv. sensitivity of receiving water bodies;
v. proximity of receiving water bodies;
vi. non-storm water discharges;
vii. past record of non-compliance by the operators of the construction site; and
viii. any other relevant factors.

(2) During the Wet Season, each Copermittee shall inspect at least monthly, all construction sites with one acre or more of soil disturbance not meeting the criteria specified above in section D.2.c.(1).

(3) During the Wet Season, each Copermittee shall inspect as needed, construction sites less than 1 acre in size."

8. On September 30, 2008, the County informed the Regional Board in its Jurisdictional Urban Runoff Management Plan, Annual Report Fiscal Year 2007-2008 (Report) that it began complying with Order No. R9-2007-0001's construction site inspection requirements on July 1, 2007.

9. On October 18, 2000, the County's Department of Public Works issued a Director's Letter of Instruction (DLI) to provide guidance to County staff in implementing the County's storm water program as required by Order No. R9-2007-0001, including inspecting "developer and single-family grading permits and other construction activities." The DLI was revised on January 8, 2008, and is scheduled to sunset on January 8, 2014.

10. This Administrative Civil Liability Complaint is issued under authority of Water Code section 13323.

ALLEGATIONS

11. Failure to Provide Adequate Authority to Achieve Full Compliance with the Order
The County violated Order No. R9-2007-0001 Provision D.2.a.(1) on March 24, 2008, when it amended its storm water ordinance on March 12, 2008, by changing the definition of "Rainy Season" from "October 1 through April 30" to "November 11 through April 30" contrary to Order No. R9-2007-0001's definition of "October 1 through April 30 of each year." On August 5, 2009, the County corrected the definition by amending its ordinance. Therefore, the days of violation are 498 (March 24, 2008, to August 4, 2009).

12. Failure to Require Construction Site BMPs During the Wet Season
The County violated Order No. R9-2007-0001 Provision D.2.c.(3) by failing to require "slope stabilization on all inactive slopes during the Rainy Season" from October 1, 2007, to November 10, 2007, and from October 1, 2008, to November 10, 2008. The DLI states that "[d]uring the Non-Rainy Season from May 1 through November 10, the Developer may opt to employ 'weathered triggered' action plans[1] in lieu of fully deployed BMPs." As a result, the County allowed Developers to leave inactive slopes unprotected from October 1 to November 10 in 2007 and 2008, if the Developer implemented a "weather triggered" action plan. Therefore, the days of violation are 80 (October 1 to November 10, 2007, and October 1 to November 10, 2008).

13. Failure to Inspect Construction Sites During the Wet Season
The County violated Order No. R9-2007-0001 Provision D.2.d.(1-3) by failing to inspect construction sites during the Wet Season from October 1, 2007, to November 10, 2007, and from October 1, 2008, to November 10, 2008, because

[1] A "weather triggered" action plan allows the developer to store on site 125% of the necessary BMP materials that are to be deployed within 48 hours of a 50% chance or greater rain event of 0.5 inches or more.

the County's inspection frequencies were based upon the County's Wet Season and therefore didn't begin until November 11. Therefore, the days of violation are 80 (October 1 to November 10, 2007, and October 1 to November 10, 2008).

14. Pursuant to Water Code section 13385, the maximum civil liability that the Regional Board may impose for a violation of a waste discharge requirement is $10,000 per day of violation. Therefore the maximum liability that may be imposed by the Regional Board for the violations alleged in Paragraphs 11 through 13 is as follows: Paragraph 11: $4.98 million; Paragraph 12: $800,000; and Paragraph 13: $800,000. The total maximum liability that the Regional Board may impose for these violations is $6.58 million.

15. The amount of discretionary assessment is based upon consideration of factors described in Water Code section 13385(e) as applied to the allegations and described further in the technical analysis.

PROPOSED CIVIL LIABILITY

16. Based on the considerations of the factors listed in section 13385 of the Water Code, civil liability should be imposed on the County of San Diego by the Regional Board in the following amounts: $49,800 ($100 per day of violation) for the violation alleged in Paragraph No. 11; $8,000 ($100 per day of violation) for the violation alleged in Paragraph No. 12; and $20,000 ($250 per day of violation) for the violation alleged in Paragraph No. 13. The total liability for all alleged violations is $77,800. The proposed civil liability will permit the recovery of costs incurred by Regional Board staff in investigating the claims and in pursuing this enforcement action.

Dated this 30th day of November 2009.

MICHAEL P. McCANN, P.E.
Assistant Executive Officer

Signed pursuant to the authority delegated by the Executive Officer to the Assistant Executive Officer.

Exhibit 3

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

ADDENDUM NO. 1 TO ORDER NO. R9-2007-0001
NPDES PERMIT NO. CAS0108758

AN ADDENDUM EXTENDING SELECTED DUE DATES FOR ORDER NO. R9-2007-0001 AS A RESULT OF THE OCTOBER 2007 WILDFIRES IN SAN DIEGO COUNTY

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

1. Regional Board Order No. R9-2007-0001 (NPDES Permit No. CAS0108758), *Waste Discharge Requirements for Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of San Diego, the Incorporated Cities of San Diego County, the San Diego Unified Port District, and the San Diego County Regional Airport Authority*, prescribes requirements for the control of pollutant discharges from MS4s within San Diego County.

2. Order No. R9-2007-0001 requires the Copermittees to submit reports and plans on prescribed dates to ensure compliance with the directives of Order No. R9-2007-001.

3. On October 21, 2007, the Governor proclaimed a regional disaster area in the San Diego Region. As of November 13, 2007, wildfires had reportedly burned an estimated 400,000 acres, destroyed or damaged over 3,100 structures, and caused the evacuation of over 500,000 residents in San Diego County.

4. On November 13, 2007, the County of San Diego, on behalf of the San Diego Region Municipal Copermittees, provided the Regional Board with a written request for an extension of due dates for a period of up to eight weeks, for the submittal and implementation of selected deliverables, required by Order No. R9-2007-0001. The Copermittees emergency response to the wildfires has resulted in the reassignment of hundreds of staff whose expertise is needed to submit the deliverables by the prescribed due dates.

5. The Regional Board has notified all known interested parties of its intent to modify Order No. R9-2007-0001 to reflect the extension of due dates for selected required deliverables.

6. The Regional Board in a public hearing heard and considered all comments pertaining to the modification of Order No. R9-2007-0001.

IT IS HEREBY ORDERED THAT

1. Order No. R9-2007-0001 is modified as the following:

   a. Jurisdictional Urban Runoff Management Program, Section D, page 15 – "Each Copermittee shall implement all requirements of section D of this Order no later than ~~365~~ **425** days after adoption of the Order, unless otherwise specified in this Order. Prior to ~~365~~ **425** days after adoption of the Order each Copermittee shall at a minimum implement is Jurisdictional URMP document, as the document was developed and amended to comply with the requirements of Order No. 2001-01."

   b. Construction Component Ordinance Update and Approval Process, Section D.2.a.(1), page 28 – "Within ~~365~~ **425** days of adoption of this Order, each Copermittee shall review and update its grading ordinances and other ordinances as necessary to achieve full compliance with this Order, including requirements for the implementation of all designated BMPs and other measures."

   c. Watershed Urban Runoff Management Program, Section E.1, page 46 – "Each Copermittee shall implement all requirements of section E of this Order no later than ~~365~~ **425** days after adoption of this Order, unless otherwise specified in this Order. Prior to ~~365~~ **425** days after adoption of this Order, each Copermittee shall collaborate with the other Copermittees within its Watershed Management Area(s) (WMA) to at a minimum implement its Watershed URMP document, as the document was developed and amended to comply with the requirements of Order No. 2001-01."

   d. Regional Urban Runoff Management Program, Section F, page 50 – "The Copermittees shall implement all requirements of section F of this Order no later than ~~365~~ **425** days after adoption of this Order, unless otherwise specified in this Order."

   e. Reporting, Urban Runoff Management Plans, Jurisdictional Urban Runoff Management Plans, Section J.1.a.(2), page 58 – "Principal Permittee – The Principal Permittee shall be responsible for collecting and assembling the individual JURMPs which cover the activities conducted by each individual Copermittee. The Principal Permittee shall submit the JURMPs to the Regional Board ~~365~~ **425** days after adoption of this Order."

   f. Reporting, Urban Runoff Management Plans, Watershed Urban Runoff Management Plans, Section J.1.b.(3), page 62 – "Principal Permittee – The Principal Permittee shall assemble and submit the WURMPs to the Regional Board ~~365~~ **425** days after adoption of this Order."

g. Reporting, Urban Runoff Management Plans, Regional Urban Runoff Management Plan, Section J.1.c.(2), page 64 – "The Principal Permittee shall be responsible for creating and submitting the RURMP. The Principal Permittee shall submit the RURMP to the Regional Board ~~365~~ **425** days after adoption of this Order."

I, John H. Robertus, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Addendum adopted by the California Regional Water Quality Control Board, San Diego Region, on December 12, 2007.

JOHN H. ROBERTUS
Executive Officer

DPW COUNTY OF SAN DIEGO
DEPARTMENT OF PUBLIC WORKS

DIRECTOR'S LETTER OF INSTRUCTION

Exhibit 4

DLI – LD – I
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LAND DEVELOPMENT

SUBJECT: STORMWATER MANAGEMENT AND REQUIREMENTS ON DEVELOPER AND SINGLE FAMILY GRADING PERMITS— CONSTRUCTION BEST MANAGEMENT PRACTICES (BMPs)

PURPOSE:

These guidelines are for use by Land Development staff in the inspection of developer and single-family grading permits and other construction activities. Changes were made to address Jurisdictional Urban Runoff Management Plan (JURMP) requirements; reflect the recently adopted County Watershed Protection, Stormwater Management, and Discharge Control Ordinance (WPO); to more clearly distinguish rainy season versus non-rainy season requirements and procedures; and to provide an alternate BMP for controlling discharge from building pads.

INSTRUCTIONS:

Land Development staff shall inspect permitted construction sites to assure that all conditions related to grading, erosion control, stormwater BMPs, and discharges from the site are met.

Minimum performance standards to control pollution from any operations falling under a County permit are:

- Installation and maintenance of BMPs to prevent construction pollutants from contacting storm water and with the intent of keeping products of erosion from moving off site into receiving waters.
- No discharges of pollutants (including sediment) from the site.

Every permittee is responsible and required to meet these performance standards and to certify selected BMPs will be installed, monitored, maintained or revised as appropriate to ensure effectiveness. BMPs must be installed in accordance with industry recommended standards (e.g. Caltrans or California Stormwater BMP handbooks, etc.). If the project owner/developer desires to use

a BMP not listed herein, written approval from the County is required before installation.

WEATHER RELATED OPTIONS:

Year-Round Implementation Requirements

Because of the ever present threat of sediment discharge on active construction sites, certain pollution control practices must be implemented year-round. At a minimum, DPW has determined these certain pollution control practices shall be adequately implemented and maintained year-round on all open permitted projects including perimeter control, wind erosion control, tracking control, non-storm water control, stockpile management, waste management, and materials pollution control.

The State Municipal Stormwater Permit (Order 2001-01) stipulates the "rainy season" for San Diego County as October 1 through April 30 of each year. While this remains the official "rainy season" for many stormwater functions, DPW has further divided this season based upon historic rainfall measurements. For the purposes of this guideline only, the period from November 11 through April 30 will be considered the rainy season.

The active disturbed soil area of the project site shall be not more than 50 acres for an individual grading permit or a combination of grading permits under associated Tentative or Final Map (i.e. TM XXXX-1 through 3). The Land Development DPW Manager may approve, on a case-by-case basis, expansions of the active disturbed soil area limit. Soil stabilization and sediment control materials shall be maintained on site sufficient to protect the disturbed soil area.

Disturbed soil areas shall be considered active whenever the soil disturbing activities have occurred, continues to occur or will occur during the ensuing 10 days. Non-active areas shall be protected within 10 days of cessation of soil disturbing activities or prior to the onset of precipitation, whichever occurs first.

Non Rainy Season - Weather Triggered Action Plan Option

During the non-rainy season from May 1 through November 10, the Developer may opt to employ "weather triggered" action plans in lieu of fully deployed BMPs. When allowed and the Developer opts to employ a "weather triggered" action plan it must be approved by the Inspector and have the ability to deploy standby BMPs as needed to completely protect the exposed portion of the project site within 48 hours of a predicted storm event.

The National Weather Service weather forecast shall be monitored and used by the Developer on a daily basis. If precipitation is predicted (50% chance of ½ inch or more of rain), the necessary water pollution control practices shall be deployed within 48 hours and prior to the onset of the precipitation. A minimum of 125% of the material needed to install weather triggered BMPs necessary to completely protect the exposed portions of the site from erosion, and to prevent sediment discharges, must be stored on site. Areas that have already been protected from erosion using physical stabilization or established vegetation stabilization BMPs as determined by the County are not considered to be "exposed" for purposes of this requirement. Developers must ensure physical stabilization erosion control is implemented for all unplanted finished slopes.

At a minimum, the weather triggered action plan shall include water pollution control drawings (WPCDs) that illustrates the locations, applications, inspection frequency, staff availability, and deployment of the BMPs proposed.

Rainy Season Requirements

Soil stabilization and sediment control practices as described in this DLI shall be deployed throughout the rain season unless identified in this DLI as an optional Weather Triggered Plan during the rain season as defined above. Implementation of required soil stabilization and sediment control practices for non-active disturbed soil areas shall be fully deployed prior to the beginning of each rainy season. All exposed disturbed areas including all flat areas and slopes shall have soil stabilization and sediment control practices properly installed. Construction activities beginning during the rainy season shall implement applicable soil stabilization and sediment control practices.

STANDARDS:
Erosion Control

The Developer must implement the following minimum Physical Stabilization BMPs or Vegetation Stabilization BMPs, or both, to prevent erosion from exposed slopes and flat areas (less than 3%). The County will not accept: tracking, mulch, wood chips, hydro seeding without watering as a means to protect exposed slopes from erosion, but such measures may be used to protect disturbed soil areas that are flat (less than 3% slope).

1. Prior to the rainy season, the Developer must remove or secure any significant accumulations of eroded soils from slopes previously disturbed by clearing or grading, if those eroded soils could otherwise enter the stormwater conveyance system or receiving waters during the rainy season.

2. Physical Stabilization through use of geotextiles, mats, jute mesh, fiber rolls, Bonded Fiber Matrix (BFM), Stabilized Fiber Matrix (SFM) or soil sealant, or other material approved by the County for stabilizing slopes, or Vegetation Stabilization may be used.

   A. If Physical Stabilization is to be used it must be fully deployed prior to and throughout the rainy season. Between May 1 and October 1, the Developer may elect to have a weather triggered action plan in lieu of full deployment. Between October 1 and November 10, the Developer may elect to have a weather triggered action plan but must still provide slope protection for all finished slopes that have not been planted and for which vegetation will not be established by November 10. Some Physical Stabilization BMPs have slope limitations, which are noted in 3 below.

   B. If Vegetation Stabilization is proposed to stabilize slopes it may be installed between May 1 and September 15 if slope irrigation is in place and operable. Vegetation must be watered and established prior to November 11. The Developer shall implement a contingency physical BMP by November 11 if vegetation establishment does not occur by that date. If landscaping is proposed and/or required, erosion control measures and physical stabilization that will not inhibit growth (i.e. SFM) must also be used while landscaping is being established. Established vegetation shall have a subsurface mat of intertwined mature roots with a uniform vegetative coverage of 70 percent of the natural vegetative coverage or more on all disturbed areas [SSM §F.3.1.1].

   C. If jute mesh is proposed as a physical stabilization, it can only be used in conjunction with either a BFM or SFM.

3. Slope Limitations:

   A. Slopes 2 to 1 (horizontal to vertical) and flatter may use the BMPs listed in 2 above.

   B. Slopes 3 to 1 and flatter may use BMPs listed in 3A above and in addition hydro mulch with a Guar, straw mulch, Gypsum or similar binder may be used.

   C. During the rainy season flat areas of less than 3% (like building pads, parking areas, and leach fields) shall have 100% protection using BMPs listed in 2 or 3B above. In addition, tracking and soil stabilizers/binders, temporary seeding, mulch/wood chips, or jute

matting may be used. During the non-rainy season the Developer may elect to have a weather triggered action plan in lieu of full deployment. These requirements will be waived if full sediment control is provided through Standard Lot Perimeter Protection Detail or constructed and maintained desiltation basins at project discharge points. [SSM §F.3.1.2].

4. During the rainy season areas of graded pads that must remain unobstructed to allow ongoing construction may be protected by rolled plastic as part of a weather-triggered action plan until the structure's roof has been completed. During the non-rainy season a weather-triggered action plan may be used and include an erosion control measures identified above or use of a desilting basin. If a desilting basin is used, then a weather-triggered action plan is not required for a graded pad [SSM §F.3.1.3].

5. Unpaved roads, pathways, sidewalks, and traveled ways within contractor's onsite yards are exempt from the 100% protection requirement but shall be protected with gravel bag chevrons or an alternative equally effective BMP [SSM §F.3.1.4].

6. Permitted projects located in the Colorado River Basin, as defined by the State Water Resources Control Board's Region 7, that are greater than one mile from the Waters of the State are exempt from the above section, unless the Director of Public Works deems the site conditions warrant the need for Erosion Control BMPs. This exemption is based on the fact that projects in the desert that are greater than one mile from receiving water have a reduced probability for runoff to enter the receiving water.

Sediment Control

At all times, the Developer must provide protection of the grading site perimeter, environmentally sensitive areas, watercourses and at operational internal inlets to the storm drain system. Protection shall be accomplished through use of filtration devices, silt fencing, straw, coconut fiber or wood fiber-rolls, gravel bag barriers, or gravel inlet filters. Capture of sediment and dust shall also be accomplished through use of storm-drain inlet protection and construction road stabilization [SSM §F.3.2.1].

Stormwater discharges from the site may not contain sediments that differ in composition or in amounts in excess of the sediments that would have been discharged from the site in an undisturbed condition. Monitoring of turbidity and suspended solids at similar undisturbed sites under similar storm conditions may be used to establish baselines for applying this standard [SSM §F.2.1.8]. This

monitoring would apply to projects that directly discharge into or 200 feet upstream of a sediment impaired water body as described in the Clean Water Act Section 303d List of Water Quality Segments (available at the San Diego Regional Water Quality Control Board or at the State Water Resource Control Website http://www.swrcb.ca.gov/tmdl/303d_lists.html).

Offsite and Onsite Sediment Control

The Developer must eliminate off-site sediment tracking through use of stabilized construction entrances/exits and sweeping year round [SSM §F.3.3.1]. Developers must eliminate sediment movement from unpaved to paved areas that drain to a MS4 facility by implementing stabilized construction entrances; installing fiber roles, silt fences, or other devices approved by the Director, and limit access into/out of dirt areas.

Velocity Reduction

The Developer must provide velocity reduction for all runoff leaving the site, and onsite runoff that could cause erosion, through appropriate outlet protection year round. Velocity reduction BMPs shall be designed and constructed for the precipitation intensity from the 10-year, 6-hour rain event. Runoff shall be calculated using Q=C x I x A where Q is the discharge rate measured in cubic feet per second; C is the runoff coefficient; I is the precipitation intensity for the 10-year, 6-hour rain event; and A is the area draining into the sediment basin in acres [SSM §F.3.4.1].

Stockpile Management

Stockpiles are to be covered (i.e. plastic or a comparable material) or protected with a soil stabilization measure and a temporary perimeter barrier (i.e. fiber roll or silt fencing). They are to be protected year round. During non-rainy season as part of a Weather Triggered Plan, the stockpile can remain uncovered until triggering rain events requires action plan to be implemented. All stockpiles of cold mix asphalt or other chemically treated materials shall also be placed on plastic or comparable material.

Materials Management

Waste handling and material storage shall be designated and waste-handling methods identified. Trash cans are required on site year round and are required to have solid lids to completely cover and enclose the trash. Methods for handling Solid waste, Sanitary waste, Concrete waste, and Hazardous waste shall be shown. Porta-potties are required to be placed behind the curb and outside of the street once paved, unless otherwise approved. Temporary

concrete washout facilities shall be lined with a plastic lining material that is at a minimum, 10-mil polyethylene sheeting, and shall be free of holes, tears or other defects that compromises the impermeability of the material. Material storage methods proposed, including storage of emergency BMP materials, shall be implemented year round [SSM §F.3.5.1].

Structural BMP Sizing
If a project chooses to rely on desiltation basins for treatment purposes, the following shall apply in addition to those requirements set forth in Section A.8 of the Statewide General Construction Permit (99-08-DWQ):

1. At a minimum, all non-standard desiltation basins shall be designed by a registered civil engineer and be designed as follows:

    A. Have at least a capacity equivalent to 3,600 cubic feet of storage per acre drained.

    B. The length of any basin, as measured from inlet to outlet, shall be more than twice the width whenever practical;

    C. The depth must not be less than three feet nor greater than five feet for safety reasons and maximum efficiency.

    D. The basin(s) shall be located on the site where it can be maintained on a year-round basis, and have a means for dewatering by no later than 5 calendar days following a storm event.

    E. Basins should be fenced if safety (worker or public) is a concern, and shall be maintained at least once before November 11 and as needed to retain a minimum of two feet of capacity at all times [SSM §F.3.6.2].

Standard Basin Design & Limitations
The below described standard design may only be used for drainage areas <u>less than one acre</u>.

1. The use of a basin requires regular maintenance to remove silt deposits and may require protective fencing, and both should be identified on grading plans. Basins are not to be located in live streams. Sediment basin should be constructed prior to the rainy season and prior to any other construction activities.

    A. Basin shall be located: (1) where a low embankment can be constructed across a swale or excavation, (2) where failure would

not cause loss of life or property damage, and (3) in areas accessible for maintenance work, including sediment removal and sediment stockpiling in a protected area.

B. Minimum dimensions are specified in table below:

Basin Dimensions (Feet)	1 Acre Lot	½ Acre Lot	¼ Acre Lot
Length	40	30	25
Width	20	15	12
Depth	5	4	3

C. Basin inlets shall be located to maximize travel distance to the basin outlet. Rock, vegetation or plastic sheeting shall be used to protect the basin inlet and slopes against erosion. An emergency spillway shall be constructed using plastic sheeting or rock lining over undisturbed material.

D. Outlet shall consist of a 4" perforated drainpipe riser and an inlet grate attached to the top of the riser. Attach riser to a 4" HDPE horizontal pipe (barrel) with a 90° elbow. The horizontal pipe shall extend through the embankment to toe of fill. Place outlet structure on firm, smooth foundation with base securely anchored with gravel jacket or other means to prevent floatation. Compact fill over outlet pipe. Use outlet protection (1" size rock/gravel minimum) at the pipe outlet.

E. Safety fencing is recommended on all applications, but if basin is within 300 feet of an existing residence or is visible from an existing residence, safety fence must be provided to prevent unauthorized entry to the basin unless a perimeter fence already protects site.

Standard Lot Perimeter Protection Design

Flat areas that have a slope no greater than 3% may be configured as described below to provide a desilting function, thus eliminating the need for other protection.

1. The following requirements control the use of this option:

A. Maximum holding time is 72 hours.

B. Maximum size for using Lot Perimeter Protection is 1 acre of disturbed area.

C. Basin shall be sized for the entire pad. Each pad shall be treated separately.

D. A berm with a minimum height of one foot shall be placed and compacted along the outlet side. A berm, with a minimum height of

6 inches, shall be installed and compacted around the remaining perimeter of the pad.

E. A rock filter shall be placed at the outlet location to slowly release the captured flows. For basins sized from 1 to 0.75 acre the rock filter shall be 6 feet in length. For basins that are sized less than 0.75 acre but greater than 0.10 acre the rock filter shall be 4 feet in length. For basins that are less than or equal to 0.10 acre the rock filter shall be 2 feet in length.

F. The rock filter shall have a minimum width of 1 foot.

G. The minimum height of the rock filter shall be 1 foot.

H. The rock size shall be between 1 to 3 inches in diameter.

I. Fiber roll with the equivalent length of the rock filter shall be properly placed 1 foot downstream of the rock filter

J. Access to the pad shall be restricted to prevent tracking off of the pad or appropriate tracking control installed.

K. A sketch is of this option is included as attachment A of this DLI

2. Maintenance and Inspection of all Desiltation Basins

A. Inspect all basins before and after rainfall events and weekly during the rest of the rainy season. During extended rainfall events, inspect at least every 24 hours. Examine basin banks for seepage and structural soundness. Repair banks as needed.

B. Check outlet structure and spillway for any damage or obstructions. Repair damages and remove obstructions as needed. Check outlet area for erosion and stabilize, if required.

C. Remove accumulated sediment when the depth has reached one-third the original basin depth.

3. Additional Responsibilities

A. Illicit connections must be eliminated (even if the connection was established pursuant to a valid permit and was legal at the time it was constructed), and illegal discharge practices eliminated.

B. Owners/Developers of property where soil-disturbing activities occur may have other responsibilities to the State Water Resources Control Board in addition to those identified in the WPO. Some examples of these include:

Permit-Exempt Grading

The Developer conducting grading activities that do not require a County permit or other approval (and which are not part of larger project that requires such approval) must select and implement at least one BMP in each of the following

areas, from the associated BMPs: graded slope erosion control, Lot Perimeter Protection erosion control, runoff velocity control; sediment control; and offsite tracking of sediment [SSM §F.4.7.1].

GRADING INSPECTION FOR BEST MANAGEMENT PRACTICES
Inspection Procedures

Construction projects shall be regularly inspected by the Supervising Engineer, County inspectors, or other County contract staff with enforcement authority to verify that the construction activities are being performed in accordance with the project plans, building and grading permits, and applicable codes, special provisions, regulations and ordinances. If the inspected site does not meet the County minimum water quality protection requirements or there is a discharge related to construction activities, County inspectors will direct compliance and conduct follow-up inspections as necessary to confirm that compliance is attained. Additional inspections will be conducted as project scope dictates the need for modified and/or additional BMPs.

1. The following framework is utilized when conducting an inspection:

    A. Determine if BMPs are being used in accordance with manufacturers' recommendations, industry recommended standards and approved plans;
    B. Determine whether BMPs are effectively being implemented and maintained properly; and
    C. Determine whether Developer is making appropriate adjustment when ineffective BMPs are found.

    D. If BMPs are either lacking or being implemented improperly, the inspector will require remediation within a reasonable time frame and may implement the County Administrative Citation process or other corrective process.

Grading Inspection for BMPs

Initial BMP Inspection

2. This inspection shall occur after the area to be graded is brushed or cleared, but prior to the start of grading operations. The following stormwater items are required to pass this inspection:

    A. Perimeter Sediment Control BMPs and Offsite and Onsite Sediment Control BMPs shall be installed as per the approved grading plan.

B. For weather-triggered BMP action plans, 125% of all needed BMP materials shall be stored onsite to allow full deployment and installation within 48 hours or less.
C. Required fencing installed along or around any environmentally sensitive areas.

Ongoing and Rough Grade Inspections

3. The following stormwater items are required to pass inspections:

A. All items from the initial BMP inspection shall be in place.
B. Erosion Control BMPs shall be installed as soon as the finished slopes and flat areas are complete, or when slopes and flat areas have not been actively graded for 10 workdays. From May 1st to September 15th vegetation stabilization may be installed. If vegetation stabilization is used, a slope irrigation system shall be in place and operable. If the vegetation is not established by November 11, then additional physical or hydraulic erosion control BMPs are also required. In the event the Developer has elected to employ a weather-triggered BMP action plan during the non-rainy season, 125% of all needed BMP materials shall be stored onsite to allow full deployment and installation within 48 hours or less.
C. Flat area protection may be waived if site discharges through a properly designed desiltation basin(s).
D. No rills or gullies larger than 3" wide or deep shall be allowed, and must be repaired as soon as it is safe to do so.
E. All deployed BMPs shall be maintained in proper working condition.
F. The SWPPP or Site Erosion Control Plan shall reflect current site conditions and deployment of BMPs.
G. No construction runoff other than stormwater will discharge into a stormwater conveyances or receiving waters.

Final Grade Inspection

4. The following stormwater items are required to pass this inspection:

A. All BMPs shall be in place and in proper working condition.
B. No rills or gullies larger than 3" wide or deep shall be present.
C. Vegetation shall be established on all manufactured slopes greater than 3 feet in height and slopes less than 3 feet must be protected through either vegetation or other approved erosion control BMP. Special cases where lack of vegetation establishment is the sole reason occupancy is being withheld are to be presented to the DPW Manager responsible for inspection activities.

D. Flat areas shall be protected by either vegetation or other approved BMP unless site discharges through a properly designed desiltation basin(s).
E. No construction runoff will discharge into a stormwater conveyance or receiving waters.

Inspection Frequencies and Responsibilities

5. The County evaluates inspection frequencies on a regular basis, particularly when grading activities are being conducted during the State's official rainy season (October 1 through April 30) and during the County's rainy season (November 11 through April 30). The need for additional inspections may vary depending upon several factors including:

A. Site conditions;
B. Previous violations;
C. History of contractor's past performance;
D. Weather patterns; and
E. Priority of construction site.

Priority of Construction Site

6. For the purpose of evaluating BMP implementation, a high priority construction site, at a minimum, is defined as a site meeting either of the following criteria or equivalent criteria:

A. The site will include grading greater than 5000 cubic yards;
B. Construction sites with disturbed areas of 5 acres or greater; or
C. The site has received a Notice of Violation from the Regional Board

7. The County has chosen not to use the low priority designation, and instead has labeled all non-high priorities as medium priority. Projects that are not high priority based on the volume, area, or permit factors listed above will be prioritized as high or medium based on the consideration of the factors listed below. Additional factors will be considered as necessary based on:

A. Site Slope
B. Project Size
C. Sensitivity of Receiving Water Bodies
D. Project Area
E. Other Permits

8. County inspectors will conduct at least monthly inspections of all active Construction Projects during the County's rainy season (November 11 to April 30). If a construction project has been designated as "high priority" site and active grading is in progress (200 cy per week) or if discharges have occurred, the County will have weekly inspections conducted.

9. Supervised grading projects (per Grading Ordinance, Sec. 87.420) will have inspections by the private civil engineer supervising the grading. In addition to general supervision and coordinating all field surveys and setting of grade stakes in conformance with the plans, sufficient site inspections will be made during grading operations to allow the civil engineer to file reports with the County as follows:

   A. Weekly during all times when grading operations is active on the site;
   B. Monthly at all other times; and
   C. At any time when requested in writing to do so by the County.

   D. Reports shall include information concerning project BMPs and discharges. County inspection staff shall review all such reports as soon as they are received to identify any issues of non-compliance. County inspectors shall conduct at least monthly inspections to confirm that the reports reflect current site conditions.

10. If a County inspector observes non-compliance at a project, they will take immediate action. Cases of minor deficiencies in BMP installation or operation will be documented with an Administrative Citation Warning along with a reasonable compliance date as determined by the inspector. Serious BMP deficiencies, discharges and failure to correct minor BMP deficiencies will be documented with an Administrative Citation or if appropriate a Notice to Stop Work may be issued. The inspector is encouraged to contact his or her supervisor by telephone if there are questions as to whether to issue an Administration Citation. The inspector will notify their supervisor immediately of any documented discharges or serious erosion problems. Copies of the Administrative Citation/Warning will be provided to the person in charge of the site. The inspector will complete a written inspection report within 2 working days of the incidence of noncompliance, and shall include evidence such as notes, photographs, and log sheets for use in any enforcement action. The inspector will conduct follow-up inspections to ensure that the deviations are either corrected or additional compliance actions are taken.

   A. The inspector's supervisor will review all Administrative Citations and determine if further actions are warranted including issuance of

a Notice to Stop Work. The supervisor shall contact DPW's Stormwater Manager for any documented discharges or serious erosion problems. DPW Stormwater Manager or Land Development DPW Manager will make the determination to inform the RWQCB (as warranted) of such violations.

B. DEFINITIONS:

a. Bonded Fiber Matrix (BFM) –A hydraulically applied erosion control matrix comprised of wood fibers and stabilizing emulsion. The matrix shall be pre-mixed and pre-packaged by the manufacturer and composed of 90 percent wood fiber, with a minimum 25 percent of the fibers averaging 10 mm long and 10 percent blended Guar based binder, all by weight. Fibers shall be colored with a water-soluble, non-toxic dye. The fibers shall be joined together by a high strength non-toxic Guar adhesive to create a continuous three-dimensional blanket that adheres to the soil surface. The matrix shall disperse rapidly in water and remain in uniform suspension under agitation to form homogeneous slurry.

b. Bonded fiber matrix, when applied, shall form a continuous moisture-holding mat with no hole greater than one mm in size, shall have no gaps between mat and soil, and have a water holding capacity of 10 liters per kilograms of matrix. Bonded fiber matrix, when dry, shall not dissolve or disperse upon rewetting. Bonded fiber matrix shall not inhibit seed germination and growth.

c. The ratio of total water to total Bonded Fiber Matrix in the mixture shall be as recommended by the manufacturer. Bonded Fiber Matrix shall not be applied immediately before, during or after rainfall so that the material will have a minimum of 24 hours to dry after application.

d. Stabilized Fiber Matrix (SFM) – A hydraulic matrix composed of water-permeable soil-stabilizing liquid emulsion along with a wood fiber mulch or wood/paper fiber mulch combination. The soil stabilizing emulsion must be a true emulsion consisting of two completely immiscible liquids, in which minute globules of one liquid are dispersed but not dissolved throughout the other liquid. The blend must also be manufactured exclusively with *GENERALLY REGARDED*

AS SAFE (GRAS) materials. It shall consist of at least (3) three different linear anionic copolymer of acryl amide/sodium acrylate in water-in-oil emulsions. The blend must be guaranteed to contain 30% (+/- 1%) active polymer, in which all of the active particles are ultra fine in size. The blend shall also be guaranteed to have 100 ppm or less of residual acrylamide. It shall be nontoxic to plant and animal life. It must also be registered and licensed by the State of California, Department of Food and Agriculture, as an "auxiliary soil amendment."

APPROVED BY: _____
JOHN L. SNYDER, Director

SUNSET:

EFFECTIVE DATE: October 18, 2000
REVISION DATE: January 8, 2008
SUNSET DATE: January 8, 2014

Standard Lot Perimeter Protection Detail

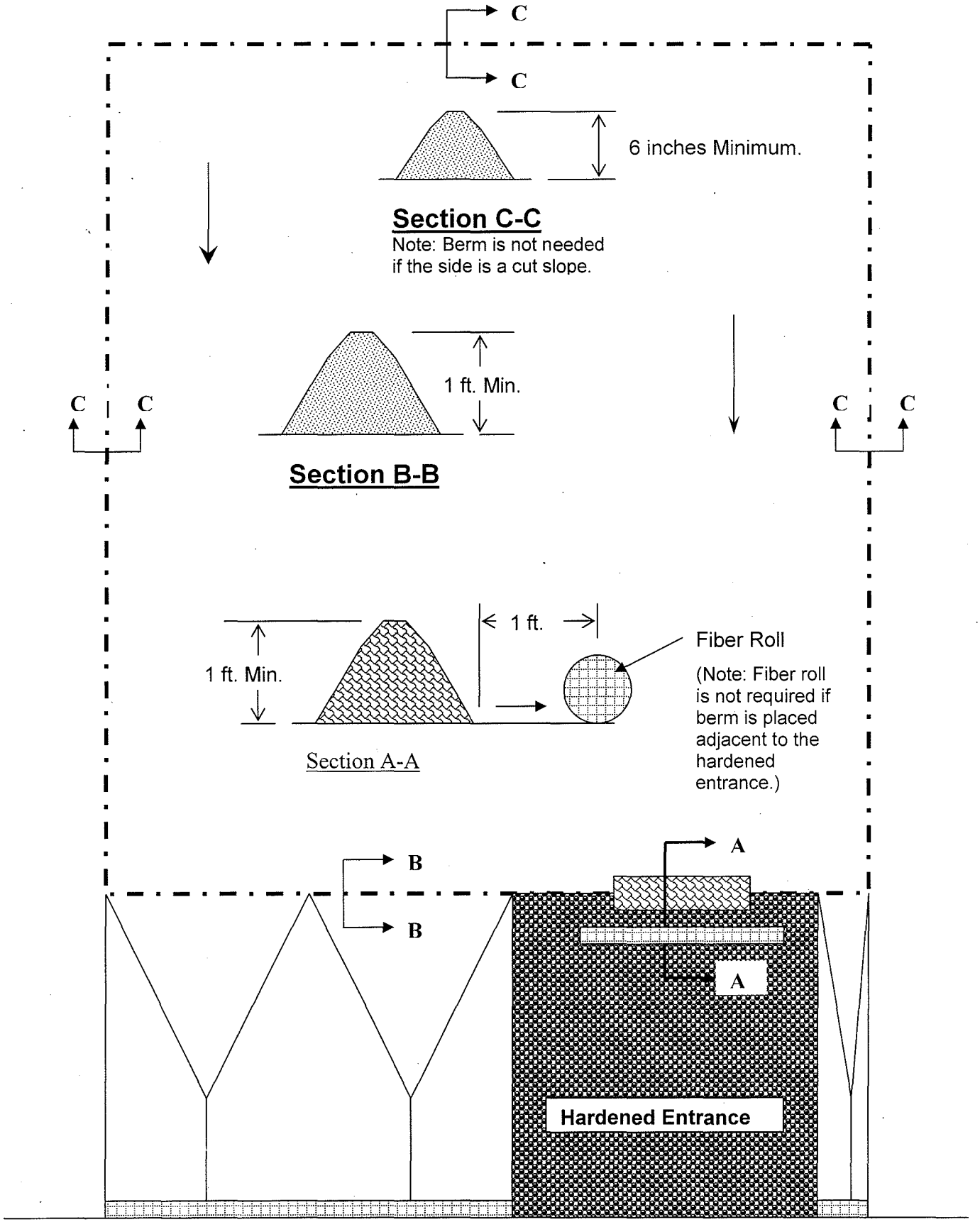

Exhibit 5

ORDINANCE NO. 9926 (NEW SERIES)

AN ORDINANCE AMENDING TITLE 6, DIVISION 7, CHAPTER 8 AND SECTIONS 87.205 THROUGH 87.208, 87.218 AND 87.414 OF THE SAN DIEGO CODE OF REGULATORY ORDINANCES RELATING TO WATERSHED PROTECTION, STORMWATER MANAGEMENT AND DISCHARGE CONTROL AND GRADING

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. The Board of Supervisors finds and determines that it needs to amend Title 6, Division 7, Chapter 8 and Sections 87.205 through 87.208, 87.218 and 87.414 of the San Diego County Code of Regulatory Ordinances relating to watershed protection, stormwater management and discharge control and grading to conform with the requirements of California Regional Water Quality Control Board, San Diego Region Order No. R9-2007-0001, NPDES No. CAS0108758.

Section 2. Amend Title 6, Division 7, Chapter 8 of the San Diego County Code of Regulatory Ordinances to read as follows:

TITLE 6. HEALTH AND SANITATION

DIVISION 7. WATER AND WATER SUPPLIES
CHAPTER 8. WATERSHED PROTECTION, STORMWATER MANAGEMENT AND DISCHARGE CONTROL

SEC. 67.801. PURPOSE AND INTENT.

(a) The purpose of this chapter is to protect water resources and to improve water quality by controlling the non-stormwater conveyance system and receiving waters; to cause the use of management practices by the County and its citizens that will reduce the adverse effects of polluted run-off discharges on waters of the state; to secure benefits from the use of stormwater as a resource; and to ensure the County is compliant with applicable state and federal law.

(b) The requirements of this chapter are intended to:

(1) Prohibit polluted non-stormwater discharges to the stormwater conveyance system and receiving waters.

See page 7 for "Rainy Season" definition.

(2) Establish requirements to prevent and reduce pollution to water resources.

(3) Establish requirements for development project site design to reduce stormwater pollution and erosion.

(4) Establish requirements for the management of stormwater flows from development projects to prevent erosion and to protect and enhance existing water-dependent habitats.

(5) Establish standards for the use of off-site facilities for stormwater management to supplement on-site practices at new development sites.

(6) Establish notice procedures and standards for adjusting stormwater and non-stormwater management requirements, where necessary.

SEC. 67.802. DEFINITIONS.

For purposes of this Chapter, the following definitions shall apply:

(a) "Advanced treatment" shall have the same meaning as defined in California Regional Water Quality Control Board, San Diego Region Order No. R9-2007-0001, NPDES No. CAS0108758, Attachment C.

(b) "Authorized enforcement official" means the Director of Public Works, the Director of the Department of Planning and Land Use, the Director of Environmental Health, the Agricultural Commissioner, Department of Agriculture, Weights and Measures, or their designees.

(c) "Authorized non-stormwater discharge" means a discharge allowed to enter the stormwater conveyance system or receiving waters in accordance with a permit under the National Pollutant Discharge and Elimination System program.

(d) "Best management practices" (BMPs) shall have the same meaning as defined in California Regional Water Quality Control Board, San Diego Region Order No. R9-2007-0001, NPDES No. CAS0108758, Attachment C. Best management practices may include any type of pollution prevention and pollution control measure that achieves compliance with this chapter.

(e) "Business activity" has the same meaning as those activities or facilities listed in section D.3.b.1 of the California Regional Water Quality Control Board, San Diego Region Order No. R9-2007-0001, NPDES No. CAS0108758; and also means airplane mechanical repair, maintenance, fueling, or cleaning; motor vehicle (or other vehicle) parking lots and storage facilities; motor vehicle and other vehicle body repair or

painting; motor vehicle mechanical repair, maintenance, fueling, or cleaning; boat mechanical repair, maintenance, fueling, or cleaning; botanical or zoological gardens and exhibits; cement mixing or cutting; cemeteries; food facilities, including, but not limited to, restaurants, taverns, markets, booths, mobile vendors, and commissaries; equipment repair, maintenance, fueling, or cleaning; golf courses, parks and other recreational facilities; landscaping; marinas; masonry storage or installation; mobile motor vehicle or other vehicle washing; mobile carpet, drape or furniture cleaning; nurseries and greenhouses; painting and coating; pest control services; pool, spa, and fountain cleaning; portable sanitary toilet servicing; retail or wholesale fueling; animal facilities; building material retail, wholesale, and storage; power washing services; and also means a facility that is involved in manufacturing; oil and gas mining; hazardous waste treatment, storage, or disposal; solid waste disposal (landfills, land application sites, and open dumps); recycling facilities; steam electric-generation; transportation; sewage or wastewater treatment; or is subject to stormwater effluent limitations guidelines, new source performance standards, or toxic Pollutant effluent standards (40 Code of Federal Regulations Subchapter N), as described in the statewide General Industrial Permit (Water Quality Order No. 97-03-DWQ); and also means any commercial, industrial, or institutional use, as described in the County of San Diego Zoning Ordinance, notwithstanding the zone in which the activity or facility is located.

(f) “Detention” means the temporary storage of storm run-off in a manner that controls peak discharge rates and provides some gravity settling of pollutants.

(g) “Detention facility” means a detention basin or alternative structure designed for the purpose of temporary storage of stream flow or surface run-off and gradual release of stored water at controlled rates.

(h) “Development project” means any land disturbance activity, construction or installation of a structure, the creation of impervious surfaces, or land subdivision.

(i) “Discharge”, when used as a verb, means to allow pollutants to directly or indirectly enter stormwater, or to allow stormwater or non-stormwater to directly or indirectly enter the stormwater conveyance system or receiving waters, from an activity or operations which one owns or operates. When used as a noun, "Discharge" means the pollutants, stormwater or non-stormwater that are discharged.

(j) “Discharger” means any person or entity engaged in activities or operations or owning facilities, which will or may result in pollutants entering stormwater, the stormwater conveyance system, or receiving waters or the owners of real property on which such activities, operations or facilities are located, except that a local government or public authority is not a discharger as to activities conducted by others in public rights of way.

(k) "Environmentally sensitive area" means impaired water bodies, as defined by the federal Clean Water Act, section 303(d) areas designated as Areas of Special Biological Significance or with the RARE beneficial use by the SWRCB in the Water Quality Control Plan for the San Diego Basin (1994 and amendments), areas designated as preserves for species-protection purposes by the State of California or a local government, and pre-approved mitigation areas identified in agreements between the County and state or federal natural resources agencies.

(l) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, and technological factors as determined in the sole discretion of the County.

(m) "Illicit connection" means a pipe, facility, or other device connected to the stormwater conveyance system or receiving waters, which has not been authorized by the County; or a permitted/authorized pipe, facility, or other device, which conveys unauthorized discharges.

(n) "Impervious surface area" means the ground area covered or sheltered by an impervious surface, measured in plan view. For example, the "impervious surface area" for a pitched roof is equal to the ground area it shelters, rather than the surface area of the roof itself.

(o) "Infiltration BMPs" means any treatment BMP designed primarily to percolate water into the subsurface. These include infiltration trench, infiltration basin, dry wells, permeable pavements without an under-drain, and sub-surface reservoir beds without an under-drain. BMPs that have some incidental infiltration but which are designed primarily to retain water or to treat water, such as bioretention, filter strips, permeable pavements with an under-drain, or vegetated/rock swales are not infiltration BMPs.

(p) "Land disturbance activity" means any activity, whether or not a stormwater management plan or County permit or approval is required, that moves soils or substantially alters the land such as grading, digging, cutting, scraping, stockpiling or excavating of soil; placement of fill materials; paving, pavement removal, exterior construction; substantial removal of vegetation where soils are disturbed including but not limited to removal by clearing or grubbing; clearing or road-cutting associated with geotechnical exploration and assessment, percolation testing, or any other activity that is a condition of a permit application; or any activity which bares soil or rock or involves streambed alterations or the diversion or piping of any watercourse. Land disturbance activity does not include routine maintenance to maintain original line and grade, hydraulic capacity, or the original purpose of the facility, emergency construction activities required to protect public health and safety; or tilling or cultivating land exclusively for the purpose of growing plants or animals, provided that all disturbed material remains on the same site, the tilling or cultivating will not block or divert any

natural drainage way, and the land to be tilled or cultivated has been in agricultural production for at least one of the preceding five years.

(q) "Maximum extent practicable" (MEP) shall have the same meaning as defined in California Regional Water Quality Control Board, San Diego Region Order No. R9-2007-0001, NPDES No. CAS0108758, Attachment C.

(r) "Natural drainage" means a drainage consisting of native soils such as a natural swale or topographic depression which gathers or conveys run-off to a permanent or intermittent watercourse or waterbody.

(s) "Non-stormwater" shall have the same meaning as defined in California Regional Water Quality Control Board, San Diego Region Order No. R9-2007-0001, NPDES No. CAS0108758, Attachment C.

(t) "Performance standard" means a requirement under this chapter that specifies a result that must be achieved (e.g., "minimize impervious surface area" or "do not impair receiving water quality") without specifying the means that must be used to achieve that result.

(u) Pollutant: means any agent introduced to stormwater or non-stormwater through human activity that may cause, potentially cause, or contribute to the degradation of water quality such that public health, the environment, or beneficial uses of waters may be affected. The term includes dredged spoil, rock, sand, or silt (excluding sediment, silt, or substances in quantities which would enter stormwater from a natural undeveloped watershed); solid waste, sewage, garbage, or medical waste; wrecked or discarded equipment; radioactive materials; industrial waste; fecal coliform, fecal streptococcus, and enterococcus bacteria and other pathogens that pose a threat to human health; volatile organic carbon, surfactants, oil and grease, petroleum hydrocarbons, total organic carbon, lead, copper, chromium, cadmium, silver, nickel, zinc, cyanides, phenols, and biocides; and any contaminant which can significantly degrade the quality of receiving waters by altering pH, total suspended or settleable solids, biochemical oxygen demand, chemical oxygen demand, nutrients, or temperature.

(v) "Pollution prevention" means the practices and processes that reduce or eliminate the generation of pollutants such as the use of smaller quantities of toxic materials or substitution of less toxic materials; changes to production processes to reduce waste; decreases in waste water flows; recycling of wastes as part of the production process; segregation of wastes, and treatment of wastes on site to decrease volume or toxicity.

(w) Priority development project means:

(1) a new development project that falls within any of the following categories:

(A) Residential subdivisions of 10 or more dwelling units. This category includes single-family homes, multi-family homes, condominiums, and apartments.

(B) Commercial developments greater thanone acre. This category is any development on private land that is not for heavy industrial or residential uses where the land area for development is greater thanone acre. The category includes: hospitals; laboratories and other medical facilities; educational institutions; recreational facilities; commercial nurseries; multi-apartment buildings; car wash facilities; mini-malls and

other business complexes; shopping malls; hotels; office buildings; public warehouses; automotive dealerships; airfields; and other light industrial facilities.

(C) Heavy industry developments greater than one acre. This category includes: manufacturing plants, food processing plants, metal working facilities, printing plants, and fleet, such as buses or trucks storage areas.

(D) Automotive repair shops. This category is a facility that is described in any one of the following Standard Industrial Classification (SIC) codes: 5013, 5014, 5541, 7532-7534, or 7536-7539.

(E) Restaurants. This category is any food establishment 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 greater than 5,000 square feet. Restaurants where land development is less than 5,000 square feet shall meet all SUSMP requirements except for structural treatment BMP, numeric sizing criteria requirement, and hydromodification requirement.

(F) All hillside development greater than 5,000 square feet. This category is defined as any development which creates 5,000 square feet of impervious surface which is located in an area with known erosive soil conditionsand where the development will grade on any natural slope that is twenty-five percent or greater.

(G) Environmentally sensitive areas: This category is any development located within or directly adjacent to or discharging directly to an environmentally sensitive area (where discharges from the development or redevelopment will enter receiving waters within the environmentally sensitive area), which either creates 2,500 square feet of impervious surface on a proposed project site or increases the area of imperviousness of a proposed project site to 10% or more of its naturally occurring condition. For purposes of

this definition, "directly adjacent" means situated within 200 feet of the environmentally sensitive area and "discharging directly to" means outflow from a drainage conveyance system that is composed entirely of flows from the subject development or redevelopment site, and not commingled with flows from adjacent lands.

(H) Parking lots 5,000 square feet or more or with 15 or more parking spaces and potentially exposed to urban run-off. Parking lot is defined as a land area or facility for the temporary parking or storage of motor vehicles used personally, for business, or for commerce.

(I) Street, roads, highways, and freeways. This category is the construction of any paved surface which is 5,000 square feet or greater used for the transportation of automobiles, trucks, motorcycles, and other vehicles.

(J) Retail gasoline outlets (RGOs). This category is a retail establishment that sells gasoline and is 5,000 square feet or greater in size or encounters 100 average daily trips or more per day.

(2) A redevelopment project that creates, adds or replaces at least 5,000 square feet of impervious surfaces to a developed site described in section 67.802(w)(1) (A) – (E), (H) and (I).

(x) "Public improvement projects" shall have the same meaning as defined in the Labor Code or Public Contract Code.

(y) "Rainy season" means from November 11 through April 30.

(z) "Receiving waters" shall mean Waters of the State as defined in California Regional Water Quality Control Board, San Diego Region Order No. R9-2007-0001, NPDES No. CAS0108758, Attachment C.

(aa) "Redevelopment" means creation, addition, or replacement of impervious surface on an already developed site. Examples include the expansion of building footprints, road widening, the addition or replacement of a structure, and creation or addition of impervious surfaces. Replacement of existing 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, resurfacing and reconfiguring surface parking lots and existing roadways, new sidewalk construction, pedestrian ramps, or bike lane on existing roads; and routine replacement of damaged pavement, such as pothole repair.

(bb) "Residential discharger" means the occupant, real property owner(s), manager, caretaker, or association board officer of a single-family dwelling, a multiple-family dwelling, mobile home park, condominium complex, or board-and-care house, or other housing structure.

(cc) "Source control BMP" shall have the same meaning as defined in California Regional Water Quality Control Board, San Diego Region Order No. R9-2007-0001, NPDES No. CAS0108758, Attachment C.

(dd) "Stormwater conveyance system" means private and public drainage facilities other than sanitary sewers within the unincorporated area of San Diego County by which urban run-off may be conveyed to receiving waters, and includes but is not limited to roads, streets, constructed channels, aqueducts, storm drains, pipes, street gutters, inlets to storm drains or pipes, or catch basins.

(ee) "Stormwater management" means the use of structural (treatment control) or non-structural (source control) BMPs that are designed to reduce urban run-off pollutant loads, discharge volumes, and/or peak discharge flow rates or velocities. When applied to the County or another municipality, stormwater management also includes planning and programmatic measures.

(ff) "Stormwater management plan" means a plan, submitted on a County form or in a County approved format with an application for a County permit or other County approval, identifying the measures that will be used for stormwater and non-stormwater management during the permitted activity.

(gg) "Stormwater BMP implementation plan" means a document which meets the requirements for a total maximum daily load (TMDL) study, and is submitted and approved by the San Diego Regional Water Quality Control Board.

(hh) "Stormwater pollution prevention plan" (SWPPP) means an approved site-specific plan that (1) identifies and evaluates sources of pollutants associated with activities that may affect the quality of stormwater discharges and authorized non-stormwater discharges from a facility or site, and (2) identifies and implements site-specific BMPs to reduce to the MEP or to prevent pollutants in stormwater or authorized non-stormwater discharges.

(ii) "SUSMP standard urban stormwater mitigation plan for land development projects and public improvement projects" means the SUSMP standard urban stormwater mitigation plan for land development projects and public improvement projects adopted by the County Board of Supervisors on November 13, 2002, as it may thereafter be revised by the Director, Department of Public Works.

(jj) "Treatment control BMP" shall have the same meaning as defined in California Regional Water Quality Control Board, San Diego Region Order No. R9-2007-0001, NPDES No. CAS0108758, Attachment C.

(kk) Tributary to an impaired water body means a facility or activity is tributary to an impaired water body if urban run-off from that facility or activity enters (1) the stormwater conveyance system at a place and in a manner that will carry pollutants for which that water body is impaired in that discharge to the impaired water body; (2) a flowing stream that will carry pollutants for which that water body is impaired in that discharge to the impaired water body; or (3) an ephemeral stream that reaches the impaired water body during storm events and that will carry pollutants for which that water body is impaired from the facility or activity to the impaired water body during such storm events.

(ll) "Water quality standards" shall have the same meaning as defined in California Regional Water Quality Control Board, San Diego Region Order No. R9-2007-0001, NPDES No. CAS0108758, Attachment C.

SEC. 67.803. GENERAL PROVISIONS.

(a) Interpretation of this chapter shall be consistent with the provisions of the California Regional Water Quality Control Board, San Diego Region Order No. R9-2007-0001, NPDES Permit No. CAS0108758. The requirements of this chapter are not intended to interfere with, abrogate or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this chapter are minimum requirements, and where any provision of this chapter imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall take precedence.

(b) Except as set forth in section 67.805, this chapter shall apply to any development project in the County, whether or not a permit or other approval is required.

(c) <u>County Permits and Approvals</u>.

(1) An application for any of the following discretionary permits or approvals shall be accompanied by plans demonstrating how the development project will comply with the requirements of this chapter. The permit or approval shall not be granted unless the decision maker determines that the development project complies with the applicable requirements of this chapter.

(A) Administrative permit for clearing.

(B) Final map modification.

(C) Grading plans or grading permits, if approval is discretionary, including Modification or Renewal.

(D) Improvement Plan, including Modification.

(E) Landscape Plan.

(F) Major Use Permit, including modification, minor deviation, or extension.

(G) Minor Use Permit, including modification, minor deviation, or extension.

(H) Parcel map modification.

(I) Reclamation plan.

(J) Site plan, including modification, minor deviation, or xtension.

(K) Solid waste facility permit.

(L) Tentative map, including resolution amendment, time extension, expired tentative map and revised tentative map.

(M) Tentative parcel map, including resolution amendment, time extension, expired tentative parcel map and revised tentative parcel map.

(N) Watercourse permit.

(2) An application for any of the following ministerial permits or approvals shall be accompanied by plans demonstrating how the development project will comply with the requirements of this chapter. The permit or approval shall not be granted unless the decision-maker determines that the development project complies with the requirements of this chapter.

(A) Building permit.

(B) Construction right of way permit.

(C) Encroachment permit.

(D) Excavation permit.

(E) Grading plans or grading permits, if approval is ministerial, including modification or renewal.

(F) On-site wastewater system permit

(G) Underground tank permit.

(H) Well permit.

(d) A priority development project shall not receive final approval until the developer has installed and implemented the required BMPs in accordance with the requirements of this chapter.

(e) If the authorized enforcement official identifies a discharge or category of facility or activity that is a significant source of contaminants to waters of the United States, despite compliance with this chapter, the discharger may be ordered by the authorized enforcement official to install, implement and maintain additional source control or treatment control BMPs to prevent or reduce contamination in stormwater and non-stormwater to the MEP. Any such order shall specify a reasonable date by which those BMPs must be put in place. Failure to install, implement, or maintain additional BMPs as required by such order, is a violation of this chapter.

(f) Areas within which facilities and sources will be presumed to be tributary to an impaired water body are identified on the most current listing in the Clean Water Act, section 303(d). The presumption that a discharge is tributary to an impaired water body can be overcome for a particular discharge based on specific facts and analysis presented by a discharger. In making a site-specific determination as to whether a discharge is tributary to an impaired water body, consideration may be given to the amount of water and pollutant discharged; to whether the pollutant for which the water body is impaired is a suspended or dissolved pollutant; to whether the pollutant is volatile or degradable; and to whether the pollutant is substantially removed during transport by any natural or man-made features (sinks, infiltration areas, ponds or impoundments, vegetated swales or wetlands, media filtration devices, etc.) located between the site and the impaired water body. Any such analysis must consider common mechanisms for pollutant mobilization, remobilization, and transport over time.

(g) An Authorized Enforcement Official may modify any requirement imposed by this chapter to allow the on-site collection and use of stormwater, or the collection of stormwater for delivery to and use at County-designated sites, provided the modified requirements are enforceable and provide equivalent environmental protection.

SEC. 67.804. DISCHARGE PROHIBITIONS.

(a) It is unlawful for any person to discharge or cause the discharge of pollutants directly or indirectly into the stormwater conveyance system or receiving waters, except as set forth in section 67.805 or as otherwise authorized by law.

(b) It is unlawful for any person to construct, use or maintain a connection to the stormwater conveyance system that discharges any matter other than stormwater, except as set forth in section 67.805(a). This section expressly supersedes any previously issued permit or authorization granted by the County and expressly prohibits any previously legal non-conforming connection.

(c) It is unlawful to throw, deposit, leave, abandon, maintain, or keep materials or wastes on public or private lands in a manner and place where they may result in a discharge.

(d) Stormwater discharges from the site may not contain sediments in amounts in excess of the sediments that would have been discharged from the site in an undisturbed condition.

SEC. 67.805. EXEMPTIONS FROM DISCHARGE PROHIBITIONS.

Except as described in section 67.805(f), the following are exempt from the prohibitions in section 67.804:

(a) Any discharge or connection regulated under a valid facility-specific NPDES permit or facility–specific Regional Water Quality Control Board Waste Discharge Requirements permit, not including a state General permit, provided that the Discharge or connection is in compliance with all relevant permit conditions to the satisfaction of the Regional Water Quality Control Board.

(b) Stormwater discharges regulated under the State General Industrial Stormwater Permit or State General Construction Stormwater permit, are exempt from discharge prohibitions established by this chapter, provided that the discharger is in compliance with all relevant general permit conditions to the satisfaction of the Regional Water Quality Control Board.

(c) Non-stormwater agricultural discharges that the State Water Resources Control Board or Regional Water Quality Control Board explicitly allows pursuant to a written waiver, waste discharge requirement, or formal policy, provided that the discharger can demonstrate compliance with all relevant permit, waiver or policy conditions to the

satisfaction of the State Water Resources Control Board or Regional Water Quality Control Board.

(d) Except as described in section 67.806(g), the following categories of non-stormwater discharges, if the discharger installs, implements and maintains BMPs or other appropriate action to reduce the discharge of pollutants to the MEP using the best available technology and if the discharge does not degrade the stormwater conveyance system:

(1) Diverted stream flows, provided required permits are obtained.

(2) Flows from riparian habitats and wetlands.

(3) Foundation drains, not including active groundwater dewatering systems.

(4) Individual residential washing of vehicles.

(5) Irrigation water including recycled water used for irrigation.

(6) Landscape irrigation.

(7) Lawn watering.

(8) Rising ground water.

(9) Swimming pool, spa, or fountain discharges (if the disinfectant concentration is reduced to 0.0 ppm chlorine or bromine and the pH adjusted to 7.2 - 8.0 pH) excluding filter backwash, acid wash, and algicide-treated other process water discharges.

(10) Uncontaminated ground water infiltration to storm drains.

(11) Uncontaminated pumped ground water.

(12) Water from crawl space pumps.

(13) Water from footing drains, not including active groundwater dewatering systems.

(14) Springs.

(15) Air conditioning condensation.

(16) County pre-approved diversions of potable water as part of utility line maintenance, provided that the discharge does not cause erosion or contain sediment or other pollutants.

(17) Discharges from potable water sources not subject to NPDES Permit No. CAG679001, other than water main breaks.

(e) Exemptions to protect public health and safety. Discharges of trauma scene post-cleanup residues, and other discharges provided that it is in conformance with the California RWQCB's Conditional Waiver of Waste Discharge Requirements, Resolution No. R9-2007-0104, adopted October 10, 2007.

(f) Any discharge category described in section 67.805(d) that the authorized enforcement official determines is a significant source of pollutant to waters of the United States shall be prohibited from entering the stormwater conveyance system or receiving waters, or the discharger shall implement additional BMPs to reduce pollutants in that discharge to the MEP, using the best available technology.

(1) The authorized enforcement official may issue a written notice to the discharger imposing a schedule to cease the discharge or implement the additional BMPs.

(2) The schedule may take into account the nature and severity of any effects caused by the discharge and the time required to design, engineer, fund, procure, construct and make appropriate BMPs or interim BMPs operational.

SEC. 67.806. GENERAL BEST MANAGEMENT PRACTICE REQUIREMENTS.

The following requirements apply to all dischargers:

(a) All dischargers must perform and maintain the following BMPs:

(1) Prior to the rainy season, remove or secure any significant accumulations of eroded soils from slopes previously disturbed by landscaping, clearing or grading, if those eroded soils could otherwise enter and impact the stormwater conveyance system or receiving waters during the rainy season.

(2) Implement, as practicable, those stormwater pollution prevention practices that are generally recognized in that discharger's industry or business as being effective and economically advantageous.

(3) Eliminate illicit connections.

(4) Protect, from erosion, those slopes that have been disturbed by clearing, grading, or landscaping and are more than three feet in height or steeper than 3:1 (run-to-rise). Slope protection shall occur prior to the first rainy season following the clearing, grading or landscaping of the slope and continuously thereafter.

(5) Store all materials and wastes with the potential to pollute stormwater in a manner that either prevents contact with rainfall and run-off from storm flows or contains contaminated run-off for treatment and disposal.

(6) Locate, configure, and manage stockpiles of soil, green waste and compost to prevent the release of materials to the stormwater conveyance system or receiving waters.

(7) Use all materials with the potential to pollute run-off, such as outdoor cleaning and maintenance products, fertilizers, pesticides and herbicides in accordance with label directions. No such product may be disposed of or rinsed into receiving waters or the stormwater conveyance system.

(8) Use dry methods such as sweeping, vacuuming, raking, and application of absorbents to cleanup pollutants, unless wet cleanup methods are otherwise allowed in this chapter.

(b) All applications to the County for a permit or approval associated with a development project must be accompanied by a stormwater management plan on a form or in a format specified by the County. The plan shall describe the manner in which the BMPs required by this chapter will be implemented.

(c) All development projects with the potential to add pollutants to stormwater or to affect the flow rate or velocity of stormwater run-off after construction is completed shall employ the following post-construction BMPs, where feasible, to ensure that pollutants and run-off from the development will be reduced to the MEP and will not significantly degrade receiving water quality:

(1) Source control BMPs. Source control BMPs include storm drain system stenciling and posting of signs; posting of signs or other form of notification at storm drain inlets and access points to creeks and channels discouraging illegal dumping and stating the receiving water by name; properly designed outdoor material storage areas; properly designed trash storage areas; and implementation of efficient irrigation systems.

(2) Low Impact Development (LID) BMPs. LID BMPs shall maximize infiltration, provide retention, slow run-off, minimize impervious footprint and constructed widths and direct run-off from impervious areas into landscaping.

(3) Buffer zones. A project shall be designed to include a buffer zone for natural water bodies. Where buffer zones are not feasible, other equally serving methods may be implemented such as trees or access restrictions.

(4) Construction BMPs. Implement land disturbance BMPs described in section 67.811.

(5) Maintenance agreement.

(d) BMPs at construction facilities shall be inspected by the discharger before and following predicted rain events.

(e) BMPs shall be maintained to function as intended and designed. BMPs which fail shall be repaired or replaced as soon as it is safe or practicable. If BMPs fail notwithstanding their intent or design, the BMPs shall be modified or upgraded to prevent any further failure in the same or similar circumstances.

(f) Notwithstanding the provisions of this chapter, an authorized enforcement official may require a discharger to prepare and submit a Stormwater Pollution Prevention Plan (SWPPP) for approval by the authorized enforcement official as follows:

(1) If the discharger fails to comply with any applicable requirement of this chapter after one or more written notifications or other enforcement action, because BMPs have been determined to be inadequate or are not being adequately maintained.

(2) The activity at issue is considered a significant source of contaminants to the stormwater conveyance system or receiving waters despite compliance with this chapter. Any discharger required to submit and to obtain approval of a SWPPP shall install, implement and maintain the BMPs specified in the approved SWPPP.

(3) The SWPPP shall identify the BMPs or corrective measures will be used by the discharger to prevent or control pollution of stormwater to the MEP. If the facility operates under the State NPDES General Industrial Stormwater Permit, the SWPPP submitted to the County shall at a minimum meet the requirements of that permit. If the activity at issues is a construction or land disturbance activity, the SWPPP submitted to the County, shall at a minimum, meet the requirements of the State NPDES General Construction Stormwater permit. If a facility discharges non-stormwater to ground water, the facility shall obtain an RWQCB permit as required by the State Water Code, and shall describe the requirements of that permit in the SWPPP.

(g) Notification of Spills, Releases and Illegal Discharges.

(1) Spills, releases, or discharges of pollutants to receiving waters or to the stormwater conveyance system shall be reported by the discharger as required by all applicable state and federal laws.

(2) Any such spills, releases or discharges with the potential to endanger health, safety or the environment shall be reported to the Director or Assistant Director, Department of Public Works, within 24 hours after discovery of the spill, release or discharge. Spills that have been completely contained and cleaned up on-site are not considered significant unless they pose a threat to human health or safety.

(3) If safe to do so, necessary actions shall be taken to contain and minimize the spill, release or discharge to the MEP

(h) Sampling, Testing, Monitoring, and Reporting.

(1) Dischargers shall perform the sampling, testing, monitoring and reporting required by this chapter.

(2) An authorized enforcement official may order a discharger to conduct testing or monitoring and to report the results to the County if one or more of the following occurs:

(A) The authorized enforcement official determines that testing or monitoring is needed to determine whether BMPs are effectively preventing or reducing pollution in stormwater to the MEP.

(B) Testing or monitoring is needed to determine whether the facility is a significant source of contaminants to receiving waters.

(C) The authorized enforcement official determines that testing or monitoring is needed to assess the impacts of a discharge on the public’s health, safety or the environment.

(D) A discharge has not been eliminated after written notice by an authorized enforcement official.

(E) The RWQCB requires the County to provide any information related to the discharger's activities.

(3) Sampling, testing or monitoring ordered pursuant to section 67.808(b)(2)(D) may include one or more of the following:

(A) Visual monitoring of dry weather flows, wet weather erosion, discharge points or conditions of BMPs.

(B) Visual monitoring of premises for spills or discharges.

(C) Laboratory analyses of stormwater or non-stormwater discharges for pollutants.

(D) Background or baseline monitoring or analysis.

(E) Monitoring of receiving waters or sediments that may be affected by pollutant discharges by the discharger or by a group of dischargers including the discharger.

(4) The authorized enforcement official may direct the manner in which the results of required testing and monitoring are reported, and may determine that sampling, testing or monitoring may discontinue.

SEC. 67.807. ADDITIONAL MINIMUM BEST MANAGEMENT PRACTICE REQUIREMENTS FOR RESIDENTIAL ACTIVITIES AND USES.

Residential dischargers shall install, implement and maintain the following additional minimum BMPs, where applicable:

(a) Motor Vehicle or Boat Repair and Maintenance.

(1) All repair and maintenance activities shall be performed under a permanent roof or other permanent cover, where feasible.

(2) All maintenance and repair activities conducted without cover or without BMPs to prevent discharges are prohibited during times of precipitation.

(3) Any release of fluids, including boat bilge water, during repair or maintenance shall be promptly contained and cleaned up. Any absorbent materials used shall be disposed of as required by law.

(4) Degreasing or pressure washing of engines and other parts is prohibited unless the liquid wastes are contained and properly disposed of as required by law.

(5) Automotive and boat materials and wastes shall be stored indoors, under cover, or in secure and watertight containers.

(b) Motor Vehicle Washing.

(1) Individual motor vehicles shall be washed over porous surfaces such as lawns and gravel areas where feasible.

(2) Unused detergent solutions shall not be disposed of directly or indirectly into the stormwater conveyance system or receiving waters. Disposal to the sanitary sewer, such as a sink, toilet or floor drain or to a porous surface, where allowed by this chapter, is required.

(3) The use of "hose off" or single use engine degreasing chemicals is prohibited, unless captured and disposed of properly.

(4) Motor vehicle washing other than individual residential motor vehicle washing is prohibited, unless all wash and rinse water is diverted to a porous area, or the sanitary sewer, or contained and disposed of in the same manner.

(5) Degreasing or pressure washing of engines and other parts is prohibited unless the liquid wastes are contained and properly disposed of as required by law.

(c) Motor Vehicle Parking.

(1) Residential dischargers shall remove excessive accumulations of oil and grease deposited by vehicles they own from parking areas, using dry clean up methods such as absorbents, scraping, vacuuming, sweeping, mop and bucket.

(2) Residential dischargers shall move vehicles from streets when notified to allow street cleaning.

(d) Home and garden care activities and product use.

(1) Residential dischargers or their contractors shall adjust irrigation systems to avoid excessive run-off.

(2) Residential dischargers or their contractors shall clean up and properly dispose of spills from gardening chemicals, fertilizers or soils to non-porous surfaces.

(3) Lawn and garden care products shall be stored in closed, labeled containers, such as in covered areas, off the ground, or under protective tarps, and in a manner that will not lead to a discharge.

(4) Disposal of household hazardous directly or indirectly to the trash or to the street, gutter or storm drain is prohibited.

(e) Home care and maintenance.

(1) Cleaning of painting equipment in or over streets, sidewalks, gutters, or yard drains is prohibited.

(2) Action shall be taken to minimize and contain all spills of hazardous materials, if it is safe to do so.

(3) Household hazardous materials shall be stored indoors or under cover, and in closed and labeled containers.

(f) Manure and pet waste management.

(1) Where practicable, all areas, where livestock, horses or other large animals are confined, shall be bermed or curbed to contain animal waste where it is produced or managed in a manner that avoids a discharge to the stormwater conveyance system or receiving waters. If compliance is not practicable, manure shall be cleaned up at least twice weekly and must be composted or properly stored prior to disposal.

(2) Areas used for storing or composting manure shall be located, configured or managed to prevent run-off to stormwater conveyance systemor receiving waters.

(g) Private sewer laterals and on-site wastewater systems.

(1) Private sewer laterals shall be cleaned, maintained and when necessary replaced to prevent seepage and spills. On-site wastewater systems shall be pumped, maintained and when necessary modified or replaced to prevent spills.

(2) Spills from private sewer laterals and on-site wastewater systems shall be contained and cleaned-up in a manner that minimizes any release of pollutants to the stormwater conveyance system or receiving waters.

(3) Any release from a private sewer lateral that enters the stormwater conveyance system or receiving waters shall be immediately reported to the County.

(4) Failed on-site wastewater systems shall be repaired or replaced

SEC. 67.808. ADDITIONAL MINIMUM BEST MANAGEMENT PRACTICE REQUIREMENTS FOR BUSINESS ACTIVITIES.

The following requirements apply to all business activities:

(a) The owner or operator shall install, implement, and maintain BMPs appropriate to the activity, as specified in the following areas and manner:

(1) Stormwater BMP training and documentation.

(A) Provide training at least annually to all operators, employees, and workers with responsibility for activities that could result in unauthorized discharges.

(B) Maintain, on site, documented evidence of training and provide the documentation upon request of the authorized enforcement official.

(C) The following categories shall be included in training and documentation:

i. Preventive maintenance.
ii. Good housekeeping.
iii. Proper waste disposal.
iv. Non-stormwater disposal alternatives.
v. Equipment/vehicle maintenance and repair.
vi. Spill response, containment, and recovery.
vii. Recycling.
viii. BMP maintenance.

(2) Where required to implement a SWPPP, retain on site, a copy of a current, complete, site-specific SWPPP and make it available for review by the authorized enforcement official, upon request.

(3) Signage.

(A) Post signs prohibiting discharges to the stormwater conveyance system or receiving waters, when required by the authorized enforcement official.

(B) Signs requiring the use of concrete washout facilities shall be installed adjacent to each concrete washout facility.

(4) Review the operations and procedures relating to protecting the stormwater conveyance system and receiving waters from pollutants at least annually. Maintain, on site, documented evidence of the annual review, and provide the documentation of the authorized enforcement official upon request.

(5) Implement pollution prevention methods or those stormwater pollution prevention practices that are generally recognized in that discharger's industry or business to eliminate or reduce pollutants in run-off to the MEP.

(6) Housekeeping.

(A) The property on which the business activity is located shall be inspected for accumulations of debris, litter, waste, organic matter, such as leaves or cut grass or other materials. Such accumulations shall be removed and disposed of in accordance with this chapter.

(B) Areas where work is being actively conducted shall be cleaned daily using dry clean-up methods such as sweeping, wiping, vacuuming, or raking. Wet clean-up methods such as hosing may only be used if precautions have been taken to prevent the discharge of wash water or other materials to the stormwater conveyance system or receiving waters.

(7) Liquid waste management

(A) Wet cleanup methods such as hosing, steaming or pressure washing is prohibited except where adequate precautions have been taken to prevent the discharge of wash water or other pollutants into the stormwater conveyance system or receiving waters. Adequate measure may include filtering all pollutants from the water prior to discharge.

(B) Cleaning by using wet methods such as hosing, steam-cleaning, pressure-washing is prohibited unless adequate precautions have been taken to prevent the entry of wash water and other contaminants into the stormwater conveyance system or receiving waters.

(C) Disposal of slurries to the stormwater conveyance system or receiving waters is prohibited.

(D) Rinse water shall be confined to a designated area such as a sanitary sewer, dead-end sump, process treatment system, or hole where water percolates or evaporates and solids are removed for collection and disposal. Rinse water and solids shall be re-used, recycled, or disposed of in accordance with this chapter.

(E) Wash water shall be directed to an approved sanitary sewer or landscaped locations.

(F) Wash racks.

i. Wash rack areas shall have perimeter control and be properly sloped to a grated floor drain.

ii. Wash rack areas shall drain to the sanitary sewer or to a holding tank, except that wash racks for animals may drain to the ground in accordance with this chapter.

(G) Disposal of wastewater to the stormwater conveyance system, receiving waters, or the ground, is prohibited.

(H) If provided, pump-out services for boats, portable toilets, or other holding tanks shall be conducted in a manner that prevents the release of sewage to the stormwater conveyance system or receiving waters.

(I) Wastewater shall be disposed to the sanitary sewer at the job site or to a holding tank. Disposal of wastewater contained in holding tanks shall be disposed of to the sanitary sewer at the business's company headquarters or at an approved location.

(J) Discharging backwash wastewater to the stormwater conveyance system or receiving waters is prohibited. Backwash wastewater may be disposed to the sanitary sewer; to a holding tank or settling pond; or where allowed by this chapter, by infiltration to the soil.

(K) Pool, spa, and fountain water intended for discharge to the stormwater conveyance system shall contain a concentration of zero ppm chlorine or bromine prior to discharge.

(L) Pool, spa, and fountain water discharged after acid washing shall be neutralized to a pH of 7.2 - 8.0.

(M) If rinse water from the cleaning of portable sanitary toilet closets cannot be properly disposed of to the sanitary sewer at a job site, it shall be contained prior to disposal at the service facility or other approved facility.

(N) Wash and rinse water from building and pavement washing that cannot be properly disposed of at the job site shall be collected and contained for recycling, reuse, or proper disposal.

(O) Where irrigation tail-water return ponds are used, the ponds shall be designed with the appropriate vertical separation between the base of the pond and the seasonal high groundwater mark and must be lined or managed to prevent the movement of water-soluble chemicals to the groundwater and to stormwater flows.

(8) Materials and waste management.

(A) Spill prevention and response.

i. Materials and equipment necessary for spill response shall be maintained and kept readily accessible.

ii. All operators, employees, and workers conducting potential discharge activities shall be trained in their proper use.

iii. Spills and leaks shall be promptly cleaned up and the generated waste disposed of in accordance with the applicable federal, state and local laws and regulations.

(B) Hazardous materials and hazardous wastes.

i. Hazardous materials and wastes shall be stored, managed, and disposed in accordance with applicable federal, state and local laws and regulations.

ii. Hazardous materials and wastes shall be stored above the ground. Where practicable, provide overhead coverage for all outside hazardous materials or waste storage areas. If overhead coverage is not available, stored materials shall be covered with an impervious material such as a tarp or other similar method.

iii. Paints, coatings, thinners, and other materials shall be disposed of in accordance with this chapter.

iv. Secondary containment of hazardous waste shall be provided around storage areas from which a significant potential exists to discharge materials or wastes to the stormwater conveyance system or receiving waters.

v. Hazardous waste storage areas shall be inspected by the owner or operator, at least once prior to the rainy season and monthly during the rainy season.

vi. Pesticides and other chemical products shall be used, stored, and disposed of in accordance with applicable federal, state, and local laws and regulations.

vii. The outdoor application of fertilizers and pesticides is prohibited during rainfall.

viii. Pesticide use shall be reduced to the MEP in areas where recurring applications of pesticides are performed.

(C) Solid, non-hazardous waste.

i. Trash storage and disposal areas shall be kept clean and free of debris.

ii. Dumpsters, grease bins, and other containers shall be maintained in a clean and leak proof condition and shall be kept securely closed when not in use.

iii. Materials and equipment necessary for the clean-up of trash and debris shall be maintained and kept readily accessible.

iv. Loose aggregate, mortar, and dust shall be routinely cleaned up using dry cleanup methods such as sweeping or vacuuming. Wet methods may be used only if necessary to adequately clean equipment for reuse, or where water must be used to lubricate and flush a cut, but only if performed in accordance with this chapter.

v. All areas where livestock, horses or other large animals are confined shall be bermed or curbed in a manner that avoids a discharge to the stormwater conveyance system or receiving water. If berms or curbs are not practicable, manure shall be cleaned up at least twice weekly and must be composted or properly stored prior to disposal.

(D) Loading and unloading.

i. Storm drain inlets located within or down-gradient of loading or unloading areas shall be covered or otherwise protected during loading and unloading activities to prevent the entry of pollutants into the stormwater conveyance system or receiving waters.

ii. Equipment and supplies stored in loading and unloading areas shall be properly maintained to prevent leaks and spills to the stormwater conveyance system or receiving waters, and to prevent their contact with rainfall and run-on.

(E) Storage.

i. Outdoor storage areas of materials and equipment shall be configured using berms, dikes, or other diversion structures or other measures that elevate stored materials and equipment from site surfaces.

ii. Containers shall be kept in a leak-proof condition, securely closed when not in use, and stored in a manner that protects them from contact with stormwater.

iii. Storage of cement and masonry materials shall be above ground and covered.

iv. Placement of stock piles within any drainage system is prohibited.

v. Stockpiles and bulk materials, such as soil, fertilizer, and potting mixture shall be covered during windy and rainy conditions where practicable. Prior to the onset of predicted rain, stockpiles shall be covered and bermed to prevent contact with stormwater.

(9) Vehicles and equipment.

(A) All vehicles and equipment shall be properly maintained and inspected to ensure their proper functioning.

(B) Vehicles and equipment shall not be washed in areas where wash water or rinse water will drain to the stormwater conveyance system or receiving waters.

(C) Infiltration of wash or rinse water to pervious surfaces is allowed with a minimum of 10 feet separation between the groundwater and the pervious surface, except that wash or rinse water generated from cleaning engines, mechanical parts, or heavy equipment shall not infiltrate a pervious surface.

(D) The use of hose-off or single-use engine degreasing chemicals is prohibited, unless captured and properly disposed.

(E) Maintenance and repair equipment shall be kept clean to avoid the build up of grease and oil.

(F) Fluids shall be drained from any retired vehicles or equipment stored on site.

(G) Vehicle and equipment maintenance and repair work such as body work shall be conducted indoors or under cover, where practicable. If work cannot be conducted indoors or under cover, other BMPs shall be implemented to prevent the discharge of pollutants into the stormwater conveyance system or receiving waters.

(H) Major repair and maintenance work on boats over or in the water is prohibited. Touch-up painting, tune ups, or other similar activities are not considered major repair or maintenance work, but may only be conducted over or in the water if adequate precautions have been taken to prevent the entry of pollutants into the water.

(10) Outdoor areas--housekeeping and grounds keeping practices.

(A) Storm drain inlets located within or down gradient of the activity shall be covered or otherwise protected from the entry of pollutants during hours of operation.

(B) Landscaping and grounds keeping.

i. Exposed slopes shall be stabilized as soon as possible.

ii. Paved surfaces such as sidewalks shall be cleaned regularly using dry clean-up methods such as sweeping or vacuuming. Hosing is permissible only after surfaces have previously been cleaned using dry methods, and only if precautions have been taken to prevent the discharge of run-off to the storm drain.

(C) Parking lots and vehicle storage areas.

i. Wet clean-up methods may only be used where adequate precautions have been taken to prevent the entry of wash water and other contaminants into the stormwater conveyance system or receiving waters.

ii. Vehicle maintenance and repair operations with the potential to release pollutants are prohibited at commercial parking lots and storage facilities.

(D) Rooftops.

i. Materials which may contaminate stormwater shall not be stored on rooftops unless adequate precautions have been taken to prevent their contact with stormwater.

ii. Equipment such as emergency generators, HVAC systems and other similar items located on rooftops shall be inspected and preventive maintenance conducted to prevent leaks and spills.

iii. Substances such as bird droppings, grease, leaves, that have accumulated on rooftops shall be removed, as practicable, to prevent or reduce the discharge of contaminants directly or indirectly to the stormwater conveyance system or receiving waters.

iv. Where feasible, roof downspouts shall be routed away from work areas and toward pervious areas such as lawns, except where required under section 67.812.

(b) Other requirements

(1) Any business activity operating under the statewide General Industrial permit shall provide the following documents for on-site review by the authorized enforcement official:

(A) The Notice of Intent letter or a Waste Discharge Identification Number issued by the SWRCB.

(B) A SWPPP satisfying the requirements of the General Industrial permit.

(C) A monitoring program satisfying the requirements of the General Industrial permit.

(D) Training records satisfying the requirements of the General Industrial permit.

(2) Any business activity identified in section D.3.b.1(c) of the California Regional Water Quality Control Board, San Diego Region Order No. R9-2007-0001, NPDES No. CAS0108758 and is tributary to an impaired water body segment or ESA, as defined in Section 303(d) of the Clean Water Act, shall perform the following:

(A) Prepare and submit a SWPPP for approval.

(B) Prepare and submit, for approval, a site-specific spill response plan that describes the areas where spills are likely to occur, the location of on-site storm drains and discharge points, the type and location of spill-response materials to be used, and the person(s) responsible for spill containment and cleanup.

(C) Install, implement, and maintain the additional BMPs in accordance with the approved SWPPP.

(D) Conduct sampling, testing, monitoring, and reporting as described in section 67.806(h)(3).

SEC. 67.809. MINIMUM BEST MANAGEMENT PRACTICE REQUIREMENTS FOR MUNICIPAL AND COUNTY OF SAN DIEGO ACTIVITIES AND FACILITIES.

(a) Municipal facilities shall install, implement and maintain the applicable BMPs specified in section 67.808, where necessary.

(b) Public improvement projects. County public improvement projects are subject to the applicable provisions of this chapter and must be designed and constructed in accordance with the standard urban stormwater mitigation plan.

SEC. 67.810. COUNTY STORMWATER STANDARDS MANUAL.

(a) Stormwater Standards Manual. The Stormwater Standards Manual is a guidance document addressing the use of pollution prevention practices and BMPs for specific activities or facilities, connections for, and disposal of stormwater.

(b) Low Impact Development Handbook. The Low Impact Development Handbook is a guidance document that provides a comprehensive list of LID planning and stormwater management techniques 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.

SEC. 67.811. ADDITIONAL REQUIREMENTS FOR LAND DISTURBANCE ACTIVITIES.

(a) The following requirements apply to all persons performing land disturbance activities and the owners of land on which land disturbance activities are performed, except that a local government or public authority is not a discharger for purposes of land disturbance activities conducted by others in public rights-of-way.

(b) Where applicable to the project, the following additional BMPs shall be installed, implemented and maintained:

(1) Erosion control or prevention of sedimentation of run-off from flat areas.

(2) Protection of the grading site perimeter, all environmentally sensitive areas, all watercourses and all operational internal inlets to the storm drain system.

(3) Show drainage flows on a site plan and how drainage will not be negatively impacted by any development activities.

(4) Reduction of run-off velocity.

(5) Offsite sediment tracking control.

(6) Waste Management.

(7) Vehicle and equipment management.

(8) Water conservation.

(9) Structure construction and painting.

(10) Paving operations.

(11) Dewatering operations.

(12) Planned construction operations.

(13) Downstream erosion control.

(14) Prevention of non-stormwater discharges.

(15) Protection of ground water.

(16) Well development.

(17) Hydromodification management requirements.

(18) Low impact development.

(19) Stabilize temporary channel crossings.

(20) Advanced treatment for sediment at construction sites that pose an exceptional threat to water quality.

(A) For purposes of section 67.817(b)(20), exceptional threat to water quality shall be defined as a site which meets all of the following criteria:

i. All or part of the site is within 200 feet of waters named on the CWA Section 303(d) list of Water Quality Limited Segments as impaired for sedimentation and/or turbidity;

ii. The disturbance area is greater than five acres, including all phases of the development;

iii. The disturbed slopes are steeper than 4:1 with at least 10 feet of relief, and drain toward a Section 303(d) listed receiving water for sedimentation or turbidity;

iv. The site contains a predominance of soils with USDA-NRCS Erosion factors k_f greater than or equal to 0.4.

(B) Advanced treatment may be required on sites that do not meet all four of the criteria for exceptional threat to water quality listed above at the discretion of the Director of the Department of Public Works based on a record on non-compliance.

(C) As an alternative to advanced treatment, an applicant may perform a MUSLE, RUSLE2, or similar analysis to establish that advanced treatment is not necessary at the proposed project site and submit it to the Director of the Department of Public Works, who, in his sole discretion, may determine that advanced treatment is not necessary.

(D) Treatment effluent water quality shall meet or exceed the water quality objectives for sediment, turbidity, pH, and toxicity as listed in the Water Quality Control Plan for the San Diego Basin (9) for inland surface waters and lagoons and estuaries for the appropriate hydrologic unit.

(E) Prior to obtaining a grading permit, the applicant shall submit, to the satisfaction of the Director of the Department of Public Works, the following:

i. An operations and maintenance schedule for all proposed work deemed necessary to achieve project water quality goals.

ii. A monitoring plan for all required BMPs and water quality for all proposed work deemed necessary to achieve project water quality goals.

iii. A written training plan for certification and documentation of necessary training and refreshers of staff.

(c) BMPs shall be inspected routinely by the person performing the land disturbance activity and the property owner to ensure the BMPs are maintained and continue to function as intended, especially before and following predicted rain events.

SEC. 67.812. ADDITIONAL PLANNING, DESIGN AND POST-CONSTRUCTION REQUIREMENTS FOR PRIORITY DEVELOPMENT PROJECTS.

All priority development projects shall install, implement and maintain the following BMPse:

(a) Low impact development. All priority development projects shall install, implement and maintain the following low impact development BMPs, where feasible:

(1) Minimize directly connected impervious surfaces.

(2) If developed with landscaped or other pervious areas, drain a portion of impervious areas such as rooftops, parking lots, sidewalks, walkways, and patios into pervious areas prior to discharge to the stormwater conveyance system. The amount of run-off from impervious areas that drains to pervious areas shall correspond with the total capacity of the project's pervious areas to infiltrate or treat run-off, taking into consideration the pervious areas' soil conditions, slope, and other pertinent factors.

(3) If developed with landscaped or other pervious areas, properly design and construct the pervious areas to effectively receive and infiltrate or treat run-off from impervious areas, taking into consideration the pervious areas' soil conditions, slope, and other pertinent factors.

(4) If developed with low traffic areas and appropriate soil conditions, construct a portion of walkways, trails, overflow parking lots, alleys, or other low-traffic areas with permeable surfaces, such as pervious concrete, porous asphalt, unit pavers, and granular materials.

(5) Conserve natural areas, including existing trees, other vegetation, and soils, where feasible.

(6) Construct streets, sidewalks, or parking lot aisles to the minimum widths necessary, provided that public safety and a walkable environment for pedestrians are not compromised, where feasible.

(7) Minimize the impervious footprint of the project, where feasible.

(8) Minimize soil compaction, where feasible.

(9) Minimize disturbances to natural drainages, such as natural swales, or topographic depressions, where feasible.

(10) Implement buffer zones for natural water bodies, where feasible.

(b) Hydromodification management.

(1) Post-construction peak run-off flow rates and velocities from the project site shall be maintained at levels that will not cause a significant increase in downstream erosion.

(2) Measures to control flow rates and velocities shall not disrupt flows and flow patterns that are necessary to support downstream wetlands or riparian habitats. Diversion of run-off to regional facilities shall not be allowed to deprive immediate downstream habitats of the necessary natural low flows levels experienced during the dry weather season or over-bank flow events.

(3) Hardening natural downstream areas to prevent erosion is prohibited, except where pre-development conditions are shown, to the satisfaction of the County, to be so erosive that hardening would be required even in the absence of the proposed development.

(4) Interim hydromodification criteria for priority development projects disturbing 50 or more acres.

(A) Estimated post-project run-off durations and peak flows shall not exceed pre-project durations and peak flows.

(B) The project proponent must use a continuous simulation hydrologic computer model such as US EPA's Hydrograph Simulation Program—Fortran (HSPF) to simulate pre-project and post-project run-off, including the effect of proposed BMPs, detention basins, or other stormwater management facilities utilizing the entire rainfall record, and shall show the following criteria are met:

i. For flow rates from 20% of the pre-project 5-year run-off event (0.2Q5) to the pre-project 10-year run-off event (Q10), the post-project discharge rates and durations shall not deviate above the pre-project rates and durations by more than 10% over more than 10% of the length of the flow duration curve.

ii. For flow rates from 0.2Q5 to Q5, the post-project peak flows shall not exceed pre-project peak flows. For flow rates from Q5 to Q10, post-project peak flows may exceed pre-project flows by up to 10% for a 1-year frequency interval. For example, post-project flows could exceed pre-project flows by up to 10% for the interval from Q9 to Q10 or from Q5.5 to Q6.5, but not from Q8 to Q10.

(C) Priority development projects disturbing 50 acres or more are exempt from the requirements of section 67.812(b)(4) if:

i. The project would discharge into channels that are concrete-lined or significantly hardened, such as with rip-rap or sackcrete, downstream to their outfall in bays or the ocean.

ii. The project would discharge into underground storm drains discharging directly to bays or the ocean.

iii. The project would discharge to a channel where the watershed areas below the project's discharge points are highly impervious (>70%).

iv. The project proponent conducts an assessment incorporating sediment transport modeling across the range of geomorphically-significant flows that demonstrates to the County's satisfaction that the project flows and sediment reductions will not detrimentally affect the receiving water.

(c) Treatment control BMPs.

(1) All treatment control BMPs shall be designed to meet the design storm criteria required under the California Regional Water Quality Control Board, San Diego Region Order No. R9-2007-0001, NPDES Permit No. CAS 108758.

(2) One or more structural treatment BMPs may be used for a single project or combination of projects. Any such shared BMPs shall be operational prior to the use of any dependent development or phase of development. The shared BMPs shall only be required to treat the dependent developments or phases of development that are in use. Interim stormwater BMPs that provide equivalent or greater treatment than is required by this chapter may be implemented by a dependent development until each shared BMP is operational. If interim BMPs are utilized, the BMPs shall remain in use until permanent BMPs are operational.

(d) Whether or not a County permit or approval is required, and whether or not a post-construction stormwater management plan is required to be submitted, all dischargers engaged in land development or significant redevelopment activities shall implement post-construction BMPs in the following areas, if applicable, to the project:

(1) These BMPs can include structures to convey run-off safely from the tops of slopes, vegetation or alternative stabilization of all disturbed slopes, the use of natural drainage systems to the MEP, flow and velocity controls upstream of sites; and stabilization or permanent channel crossings, unless the crossing is not publicly accessible and is not frequently used.

(2) BMPs to control flows, velocity and erosion may include the use of energy dissipaters, such as riprap, at the outlets of storm drains, culverts, conduits, or lined channels that enter unlined channels to minimize erosion; installation of retention or equalization basins; or other measures. Flow control and downstream erosion protection measures shall prevent any significant increase in downstream erosion as a result of the new development, but shall not prevent flows needed to sustain downstream riparian habitats or wetlands.

(3) Stabilize permanent channel crossings.

(e) Structural BMPs to treat or to infiltrate stormwater where a development project would otherwise cause or contribute to a violation of water quality standards in receiving waters. Off-site structural BMPs may be used for treatment and infiltration necessary to meet water quality standards only if the conveyance of run-off to those facilities prior to treatment will not cause or contribute to an exceedance of water quality standards, or deprive wetlands or riparian habitats of needed flows.

(f) When an infiltration BMP is used, the following requirements apply:

(1) Infiltration BMPs shall not cause or contribute to an exceedance of applicable groundwater quality objectives as set out in the RWQCB "Basin Plan" for the San Diego area.

(2) Infiltration BMPs shall be designed to protect groundwater by providing 10 feet of vertical separation between the base of the infiltration BMP and the seasonal high groundwater mark, unless otherwise authorized by the RWQCB.

(3) Infiltration BMPs shall be setback horizontally 100 feet from any water supply wells and 100 feet from septic systems.

(4) Infiltration BMPs must be designed to completely drain within 72 hours after a storm. If the infiltration rates of the underlying soils are slow, depth and footprint of the infiltration BMP must be adjusted to achieve this standard.

(5) Restrictions to infiltration BMPs shall be in compliance with Section D.1.d.(12) of the California Regional Water Quality Control Board, San Diego Region Order No. R9-2007-0001, NPDES Permit No. CAS0108758.

(g) The authorized enforcement official with responsibility for the principal permits or approvals sought for a priority development project, may waive the requirements of section 67.812(a), if compliance would be infeasible. A waiver shall only be granted if all available structural treatment BMPs have
been considered and rejected as infeasible. If a waiver is granted, the authorized enforcement official may impose alternative, feasible run-off treatment requirements, or may impose other conditions consistent with state law and County ordinances to facilitate the construction of a shared treatment facility in the future.

SEC. 67.813. MAINTENANCE OF BMPs.

(a) All existing and new development shall maintain the construction and permanent BMPs relied upon to achieve and maintain compliance with this chapter. BMPs shall remain effective and function in the manner intended.

(b) The owners and occupants of lands on which structural post-construction BMPs have been installed to meet the requirements of this chapter shall ensure the maintenance of those BMPs, and shall themselves maintain those BMPs if other persons or entities who are also obliged to maintain those BMPs fail to do so.

(c) Primary responsibility to maintain a BMP may be transferred through a contract or other agreement. If that contract provides that it will be submitted to the County pursuant to this chapter as part of a development permit application, and if that contract is so submitted, the person or entity accepting a maintenance obligation in such a contact or agreement will also be legally obliged to maintain that BMP pursuant to this chapter.

(d) For purposes of County enforcement, no contract or other agreement imposing an obligation to maintain a BMP can relieve a person or entity of any obligation to maintain a BMP imposed by this chapter.

(e) Any developer who transfers ownership of land on which a BMP is located or will be located, or who otherwise transfers ownership of a BMP or responsibility for the maintenance of a BMP to another person or entity, shall provide clear written notice of the maintenance obligations associated with that BMP to the new or additional responsible party prior to that transfer.

(f) The proponents of any land disturbance activity described in sections 67.803(c)(1) and 67.803(c)(2) shall provide to the County for review and approval prior to issuance of such permit, a plan for maintenance of all post-construction structural BMPs associated with the project. The plan shall specify the persons or entities responsible for maintenance activity, the persons or entities responsible for funding, schedules and procedures for inspection and maintenance of the BMPs, worker training requirements,

and any other activities necessary to ensure BMP maintenance. The plan shall provide for servicing of all post-construction structural BMPs at least annually, and for the retention of inspection and maintenance records for at least three (3) years.

(g) The proponents of any development project that requires a discretionary County permit shall provide to the County for review and approval prior to issuance of such permit, an executed, permanent easement onto the land on which post-construction BMPs will be located, and across other lands as necessary for access, to allow inspection and maintenance of those BMPs.

(h) Except as allowed in section 67.813(i), the proponents of any project that requires a discretionary County permit shall provide to the County prior to issuance of such permit, proof of a mechanism acceptable to the County which will ensure ongoing long-term maintenance of all post-construction BMPs associated with the proposed project. The proponents shall be responsible for maintenance, repair and replacement of BMPs unless and until an alternative mechanism for ensuring maintenance is accepted by the County and becomes effective.

(i) The County or another public entity may accept responsibility for maintenance of any BMP, under such conditions as the County or other public entity determines are appropriate. Where a maintenance obligation is proposed to be accepted by a public entity other than the County, the County shall be involved in the negotiations with that agency, and in negotiations with the resource agencies responsible for issuing permits for the construction or maintenance of the BMP. The County must be identified as a third party beneficiary empowered to enforce any such maintenance agreement.

SEC. 67.814. INSPECTION AND SAMPLING.

(a) Authorized enforcement officials may inspect facilities, activities and residences subject to this chapter at reasonable times and in a reasonable manner to carry out the purposes of this chapter. If entry for a regulatory inspection is refused by the owner or operator, or by the occupant of a residence, an inspection warrant shall be obtained prior to inspection.

(b) When any new structural BMP is installed on private property as part of a project that requires a County permit, in order to comply with this chapter, the property owner shall grant to the County an easement to enter the property at reasonable times and in a reasonable manner to ensure that the BMP is working properly. This includes the right to enter the property without prior notice once per year for routine inspections, to enter as

needed for additional inspections when the County has a reasonable basis to believe that the BMP is not working properly, to enter for any needed follow-up inspections, and to enter when necessary for abatement of a nuisance or correction of a violation of this chapter.

(c) Inspections may include all actions necessary to determine whether any illegal discharges or illicit connections exist, whether the BMPs installed and implemented are adequate to comply with this chapter, whether those BMPs are being properly maintained, and whether the facility or activity complies with the other requirements of this chapter. This may include but may not be limited to sampling, metering, visual inspections, and records review. Where samples are collected the owner or operator may request and receive split samples. Records, reports, analyses, or other information required under this chapter may be inspected and copied, and photographs taken to document a condition and/or a violation of this chapter.

Section 3. Section 87.205 of the Regulatory Code is hereby amended to read as follows:

(a) through (c) (8) No Change.

(9) The application and accompanying plans demonstrate compliance with Title 6, Division 7, Chapter 8 of this code;

(10) through (12) No Change.

Section 4. Section 87.206 of the Regulatory Code is hereby amended to read as follows:

(a) Requirements for All Minor Grading. Proposed grading shall be considered "Minor Grading" if it:

(1) through (6) No Change.

(7) complies with Title 6, Division 7, Chapter 8 of this code;

(8) through (15) No Change.

(b) through (c) No Change.

Section 5. Section 87.207 of the Regulatory Code is hereby amended to read as follows:

(a) The County Official may approve grading plans or improvement plans for a project for which a discretionary land use approval has previously been granted, where he or she determines that:

(1) through (2) No Change.

(3) The grading complies with Part F.3 of the Title 6, Division 7, Chapter 8 of this code.

(4) through (9) No Change.

(b) No Change.

Section 6. Section 87.208 of the Regulatory Code is hereby amended to read as follows:

(a) Grading not covered by Sections 87.205, 87.206 or 87.207 shall be known as "Major Grading." The County Official may approve grading plans or improvement plans for major grading, if he or she determines that:

(1) through (3) No Change.

(4) The proposed grading complies with Title 6, Division 7, Chapter 8 of this code.

(5) No Change.

(b) through (c) No Change.

Section 7. Section 87.218 of the Regulatory Code is hereby amended to read as follows:

The County Official may issue a permit for temporary stockpiling (storage) of earth conforming to the following:

(a) (1) through (6) No Change.

(7) include, on the face of all fill slopes in excess of three feet in vertical height, installation and maintenance of measures to protect against erosion and instability and so that run-off water leaving the premises will not contain sand, silt or other debris, and will comply with Title 6, Division 7, Chapter 8 of this code.

(8) through (10) No Change.

(b) through (c) No change.

Section 8. Section 87.414 of the Regulatory Code is hereby amended to read as follows:

(a) No Change.

(b) Where grading operations are to be conducted for any time during the period from November 11 through April 30, the County Official may require the incorporation of additional erosion control measures, including but not limited to the application of geotextile fabrics, erosion control blankets, particularly if slope plantings required by Section 81.417 have not become established.

(c) If any part of grading work on any site is ceased for any reason for a period in excess of 10 calendar days or prior to the onset of precipitation (50% chance of ½ inch or more of rain), the County Official requires that additional stormwater measures be implemented to disturbed soil areas, as required by Section 67.817, in order to prevent damage such as erosion or sedimentation to the site, slopes, adjoining properties, public rights of way or watercourses.

(d) The active disturbed soil area of a project site shall be no more than 50 acres for an individual grading permit/improvement plan or combination of grading permits under associated Tentative or Final Map (i.e. TM XXXX-1 through 3), unless otherwise approved by the County Official. 125% of the required Stormwater BMP materials shall be maintained on site to protect the disturbed soil area.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of San Diego this 12th day of March, 2008.

Exhibit 6

COUNTY OF SAN DIEGO

WATERSHED PROTECTION, STORMWATER MANAGEMENT AND DISCHARGE CONTROL ORDINANCE

An Excerpt From The San Diego County Code Of Regulatory Ordinances

The definition of "Rainy Season" can be found at page 9.

(Amended by Ordinance No. 9589 (N.S.), adopted 8/5/03)
(Amended by Ordinance No. 9518 (N.S.), adopted 1/10/03)
(Ordinance No. 9426 (N.S.), adopted 2/1/02)

COUNTY OF SAN DIEGO
WATERSHED PROTECTION, STORMWATER MANAGEMENT AND DISCHARGE CONTROL ORDINANCE

An Excerpt From The San Diego County Code Of Regulatory Ordinances

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CHAPTER 8. STORMWATER AND DISCHARGE CONTROL

ARTICLE 1. TITLE, PURPOSE, DEFINITIONS, AND GENERAL PROVISIONS

SEC. 67.801. TITLE.

This Chapter shall be known as the "County of San Diego Watershed Protection, Stormwater Management, and Discharge Control Ordinance."

SEC. 67.802. PURPOSES.

The purposes of this Ordinance are to protect the health, safety and general welfare of County of San Diego residents; to protect water resources and to improve water quality; to cause the use of management practices by the County and its citizens that will reduce the adverse effects of polluted runoff discharges on waters of the state; to secure benefits from the use of stormwater as a resource; and to ensure the County is compliant with applicable state and federal law. The Ordinance seeks to promote these purposes by:

- Prohibiting polluted non-stormwater discharges to the stormwater conveyance system;

- Establishing minimum requirements for stormwater management, including source control requirements, to prevent and reduce pollution;

- Establishing requirements for development project site design, to reduce stormwater pollution and erosion;

- Establishing requirements for the management of stormwater flows from development projects, both to prevent erosion and to protect and enhance existing water-dependent habitats;

- Establishing standards for the use of off-site facilities for stormwater management to supplement on-site practices at new development sites; and

- Establishing notice procedures and standards for adjusting stormwater and non-stormwater management requirements where necessary.

SEC. 67.803. DEFINITIONS.

The following definitions shall be applicable when the following words or phrases are used hereafter in this Ordinance (including use in the County Stormwater Standards Manual), whether or not these words or phrases are capitalized:

Accelerated Erosion: means erosion caused by development activities that exceeds the natural processes by which the surface of the land is worn away. Erosion includes the movement or loss of soil by the action of water, wind, or chemical action.

Authorized Enforcement Staff: means any County employee supervised by an Authorized Enforcement Official, assigned to duties involving permits and other County approvals, inspections, and enforcement related to this Ordinance.

Authorized Enforcement Official: means the Director of Public Works; the Director of the Department of Planning and Land Use; the Director of Environmental Health; and the Agricultural Commissioner, Department of Agriculture, Weights and Measures.

Best Management Practices: means schedules of activities, pollution treatment practices or devices, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices or devices to prevent or reduce the discharge of pollutants directly or indirectly to Stormwater, Receiving Waters, or the Stormwater Conveyance System. Best Management Practices also include but are not limited to treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage. Best Management Practices may include any type of pollution prevention and pollution control measure that can help to achieve compliance with this Ordinance.

BMPs: means Best Management Practices.

Channel: means a natural or improved watercourse with a definite bed and banks that conducts continuously or intermittently flowing water.

Commercial Discharger: means a Discharger who operates a Regulated Commercial Facility.

Constructed Wetland: means a vegetated area that has been deliberately modified to provide or enhance habitat, to provide water quality benefits, or to moderate water flow rates or velocities, that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

County: means the County of San Diego.

County Stormwater Standards Manual: means the manual described in section 67.804(g) of this Ordinance, attached to this Ordinance as Appendix A.

County Urban Area: means that portion of the unincorporated area of the County that is within the service area boundary of a public water supply company or agency, as indicated on the map at Appendix B, plus any other land in the unincorporated area of the County which will, after proposed development is completed, route stormwater runoff into or through an underground conveyance other than a road-crossing culvert.

Detention: means the temporary storage of storm runoff in a manner that controls peak discharge rates and provides some gravity settling of pollutants.

Detention Facility: means a detention basin or alternative structure designed for the purpose of temporary storage of stream flow or surface runoff and gradual release of stored water at controlled rates.

Developer: means a person who seeks or receives permits for or who undertakes land development activities.

Development Project Proponent: means Developer.

Discharge: when used as a verb, means to allow pollutants to directly or indirectly enter storm water, or to allow storm water or non-stormwater to directly or indirectly enter the Stormwater Conveyance System or Receiving Waters, from an activity or operations which one owns or operates. When used as a noun, "Discharge" means the pollutants, storm water and/or non-storm water that is discharged.

Discharger: means any person or entity engaged in activities or operations or owning facilities, which will or may result in pollutants entering storm water, the Storm Water Conveyance System, or Receiving Waters; and the owners of real property on which such activities, operations or facilities are located; provided however that a local government or public authority is not a discharger as to activities conducted by others in public rights of way.

Discharges Directly To: means that stormwater or non-stormwater enters Receiving Waters from a facility or activity, without mixing with any storm water or non-stormwater from another facility or activity prior to entering such Receiving Waters.

Drainage Easement: means a legal right granted by a land owner to a grantee allowing the use of private land for stormwater management purposes.

Environmentally Sensitive Area: means Impaired Water Bodies, areas designated as Areas of Special Biological Significance or with the RARE beneficial use by the SWRCB in the Water Quality Control Plan for the San Diego Basin (1994 and amendments), National Wildlife Refuges, areas designated as preserves for species-protection purposes by the State of California

or a local government, and pre-approved mitigation areas identified in agreements between the County and state or federal natural resources agencies.

Erosion and Sediment Control Plan: means a Stormwater Management Plan that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.

ESA: means Environmentally Sensitive Area.

Household Hazardous Waste: means a household hazardous material that no longer has a use and is discarded or intended to be discarded. The term includes but is not limited to paint and paint-related materials; yard and garden products; household cleaners; used oil, motor vehicle fluids, batteries and oil filters; and household batteries.

Hydrologic Soil Group (HSG): means the classification system for soil erodability set out in "Soil Survey - San Diego Area, California" (December 1973), issued by the U.S. Department of Agriculture Soil Conservation Ser vice and U.S. Forest Service. (In this system soils are categorized into four runoff potential groups. The groups range from "A" soils, which have high permeability and little runoff production, to "D" soils, which have low permeability rates and produce much more runoff.)

Illicit Connection: means a pipe, facility, or other device connected to the Stormwater Conveyance System or Receiving Waters, which has not been reviewed and authorized by the County; or a permitted/authorized pipe, facility, or other device, which conveys Illegal Discharges.

Illegal Discharge: means any discharge into Stormwater, the Stormwater Conveyance System, or Receiving Waters that is prohibited by this Ordinance. This includes but is not limited to discharges of non-stormwater that are not exempt discharges listed in Section 67.806, any discharge from an Illicit Connection, and any discharge that contains additional pollutants due to the absence of a required BMP or the failure of a BMP unless it qualifies as an upset. Discharges that require a County permit or an RWQCB permit that has not been issued or has not been acknowledged by the Discharger to be applicable are Illegal Discharges. Discharges regulated under an applicable RWQCB or County permit or SWPPP are Illegal Discharges for purposes of this Ordinance unless compliance with all applicable permit and SWPPP conditions is maintained.

Impaired Water Body: means a water body that is listed by the SWRCB as impaired by a particular pollutant or pollutants, pursuant to section 303(d) of the Federal Clean Water Act. "303(d) listed water body" has the same meaning.

Impervious Cover or Impervious Surface: means constructed or modified surfaces that cannot effectively infiltrate rainfall. The term includes but is not limited to building rooftops, pavement, sidewalks, and driveways.

Impervious Surface Area: means the ground area covered or sheltered by an impervious surface, measured in plan view (i.e., as if from directly above). For example, the "impervious surface area" for a pitched roof is equal to the ground area it shelters, rather than the surface area of the roof itself.

Industrial Activity: means manufacturing, processing, or raw materials storage at a commercial, industrial or municipal facility. The term includes, but is not limited to, industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials; manufactured products, waste material, or by-product creation or storage; material handling; refuse storage or disposal; the application or disposal of process wastewaters; storage and maintenance of material handling equipment; treatment, storage or disposal of residuals; outdoor shipping and receiving; activities in manufacturing buildings; storage of raw materials and intermediate and finished products; and areas where significant industrial activity has taken place in the past and significant materials remain and are exposed to storm water. Material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, finished product, by-product, or waste product.

Industrial Discharger: means a Discharger who operates a Regulated Industrial Facility.

Industrial Stormwater Permit: means the State General Industrial Stormwater Permit.

Infiltration: means the process of percolating storm water or non-storm water into the subsoil.

Infiltration BMP or Infiltration Facility: means any structural treatment BMP designed primarily to percolate water into the subsurface, such as an infiltration trench or infiltration basin. An infiltration facility may include filtering prior to or during infiltration. BMPs that infiltrate some water but which are designed primarily to retain water or to treat water, such as retention basins, constructed wetlands, or filtering swales are not infiltration facilities.

Jurisdictional Wetland: means an area that is naturally inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation. This includes but is not limited to areas previously designated by the County as wetlands (e.g., in the County's Resource Protection Ordinance). Constructed wetlands are not jurisdictional wetlands.

Land Development Activity: means any activity or proposed activity that requires any of the permits or approvals listed in section 67.804(e) of this Ordinance.

Land Disturbance Activity: means any activity that moves soils or substantially alters the pre-existing vegetated or man-made cover of any land. This includes, but is not limited to, grading, digging, cutting, scraping, stockpiling or excavating of soil: placement of fill materials: paving, pavement removal, exterior construction: substantial removal of vegetation where soils are disturbed including but not limited to removal by clearing or grubbing: or any activity which bares soil or rock or involves streambed alterations or the diversion or piping of any watercourse. Land Disturbance Activity does not include routine maintenance to maintain original line and

grade, hydraulic capacity, or the original purpose of the facility, nor does it include emergency construction activities (i.e., land disturbances) required to protect public health and safety.

Land Owner: means the holder of legal title to the land, and other persons or entities who exercise control over a land development project pursuant to rights granted in a purchase agreement, joint venture agreement, development agreement, or long-term lease.

Maintenance [of a BMP]: means periodic action taken to maintain the as-designed performance of a BMP, and includes but is not limited to repairs to the BMP as necessary, and replacement of the BMP by an equally effective or more effective BMP at the end of its useful life.

Maximum Extent Practicable ["MEP"]: is an acceptability standard for Best Management Practices (BMPs). When BMPs are required to meet this standard, the BMPs must be the most effective set of BMPs that is still practicable. A BMP is effective if it prevents, reduces or removes the pollutants that would otherwise be present in runoff due to human activity. A BMP is practicable if it complies with other regulations as well as stormwater regulations; is compatible with the area's land use, character, facilities, and activities; is technically feasible (considering area soil, geography, water resources, and other resources available); is economically feasible; and provides benefits that are reasonable in relation to costs.

MEP: means Maximum Extent Practicable.

Motor Vehicle: means any automobile, car, truck, bus, motor home or other self-propelled vehicle used or suited to use for on-road transportation: and any similar vehicle modified for off-road use.

Municipal Facility: means a facility owned or operated by the County of San Diego, by the Port Authority of San Diego, or by an incorporated City within San Diego County, that is used for a governmental purpose. Facilities on municipally owned land that are leased or rented to others to generate municipal revenues are not Municipal Facilities. (The commercial or industrial lessees of such facilities may, however, be subject to this Ordinance as Commercial Dischargers or Industrial Dischargers.)

NPDES Permit: means a National Pollutant Discharge Elimination System permit issued by the U.S. Environmental Protection Agency, the SWRCB, or the RWQCB.

NPDES Permit No. CAS 0108758: means RWQCB Order No. 2001-01, NPDES Permit No. CAS 0108758, "Waste Discharge Requirements for Discharges of Urban Runoff From the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of San Diego, the Incorporated Cities of San Diego County, and the San Diego Unified Port District."

Off-Site BMP: means a stormwater management measure located outside the subject property boundary of a facility or outside the boundary described in the permit application for a land development activity.

On-Site BMP: means a stormwater management measure located within the subject property boundary or a facility, or inside the boundary described in the permit application for a land development activity.

Performance Standard: means a requirement under this Ordinance that specifies a result that must be achieved (e.g., "minimize impervious surface area" or "do not impair receiving water quality") without specifying the means that must be used to achieve that result. (This Ordinance applies performance standards only to certain land development and redevelopment projects that require discretionary County permits; those permits will typically include enforceable project-specific requirements intended to achieve the result required by the performance standard.)

Pollutant: means any agent introduced to stormwater or non-stormwater through human activity that may cause or contribute to the degradation of water quality such that public health, the environment, or beneficial uses of waters may be affected. The term does not include trauma scene post-cleanup residues. The term may include but is not limited to dredged spoil, rock, sand, or silt (excluding sediment, silt, or substances in quantities which would enter Stormwater from a natural undeveloped watershed); solid waste, sewage, garbage, or medical waste; wrecked or discarded equipment; radioactive materials; industrial waste; fecal coliform, fecal streptococcus, and enterococcus bacteria and other pathogens that pose a threat to human health; volatile organic carbon, surfactants, oil and grease, petroleum hydrocarbons, total organic carbon, lead, copper, chromium, cadmium, silver, nickel, zinc, cyanides, phenols, and biocides; and any contaminant which can significantly degrade the quality of Receiving Waters by altering pH, total suspended or settleable solids, biochemical oxygen demand, chemical oxygen demand, nutrients, or temperature.

Primary Pollutant of Concern: means any of the following pollutants, if that pollutant may be discharged from a priority development project or significant redevelopment project, and is also a basis for a listing of the receiving water for the project as impaired pursuant to Section 303(d) of the federal Clean Water Act: sediments, nutrients, heavy metals, organic compounds, trash and debris, oxygen demanding substances, oil and grease, bacteria and viruses, and pesticides.

Priority Development Project: means a development project in the county urban area that falls within any of the following categories:

i. *Home subdivisions of 100 housing units or more.* This category includes single-family homes, multi-family homes, condominiums, and apartments.

ii. *Home subdivisions of 10-99 housing units*. This category includes single-family homes, multi-family homes, condominiums, and apartments.

iii. *Commercial developments greater than 100,000 square feet*. This category is defined as any development on private land that is not for heavy industrial or residential uses where the land area for development is greater than 100,000 square feet. The category includes, but is not limited to: hospitals; laboratories and other medical facilities; educational institutions; recreational facilities; commercial nurseries; multi-apartment

buildings; car wash facilities; mini-malls and other business complexes; shopping malls; hotels; office buildings; public warehouses; automotive dealerships; commercial airfields; and other light industrial facilities.

iv. *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.

v. *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 greater than 5,000 square feet.

vi. *All hillside development greater than 5,000 square feet.* This category is defined as any development which creates 5,000 square feet 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.

vii. *Environmentally Sensitive Areas: All development and redevelopment located within or directly adjacent to or discharging directly to an environmentally sensitive area (where discharges from the development or redevelopment will enter receiving waters within the environmentally sensitive area), which either creates 2,500 square feet of impervious surface on a proposed project site or increases the area of imperviousness of a proposed project site to 10% or more of its naturally occurring condition.* Environmentally sensitive areas 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 Resources Control Board (Water Quality Control Plan for the San Diego Basin (1994) and amendments); water bodies designated with the RARE beneficial use by the State Water Resources Control Board (Water Quality Control Plan for the San Diego Basin (1994) and amendments); areas designated as preserves or their equivalent under the Multi Species Conservation Program within the Cities and County of San Diego; and any other equivalent environmentally sensitive areas which have been identified by the Copermittees. "Directly adjacent" means situated within 200 feet of the environmentally sensitive area. "Discharging directly to" means outflow from a drainage conveyance system that is composed entirely of flows from the subject development or redevelopment site, and not commingled with flows from adjacent lands.

viii. *Parking lots 5,000 square feet or more or with 15 or more parking spaces and potentially exposed to urban runoff.* Parking lot is defined as a land area or facility for the temporary parking or storage of motor vehicles used personally, for business, or for commerce.

ix. *Street, roads, highways, and freeways.* This category includes construction of any paved surface which is 5,000 square feet or greater used for the transportation of automobiles, trucks, motorcycles, and other vehicles.

Rainy Season: means, from October 1 through April 30.

Receiving Waters: means all waters that are "Waters of the State" within the scope of the State Water Code, including but not limited to natural streams, creeks, rivers, reservoirs, lakes, ponds, water in vernal pools, lagoons, estuaries, bays, the Pacific Ocean, and ground water.

Redevelopment: means any construction, alteration or improvement at an already developed site that will increase the total impervious surface area of that site, or that involves activities that could expose contaminants to rainfall. Redevelopment can include but is not limited to the expansion of building footprints, the addition or replacement of a structure, exterior construction and remodeling, replacement of existing impervious surfaces that is not part of a routine maintenance activity , and other activities that create additional impervious surface.

Regulated Commercial Facility: means all non-residential facilities engaged in business or commerce, whether for profit or not-for-profit, or publicly or privately owned, except for Regulated Industrial Facilities and Municipal Facilities; plus residences used for commercial repair, maintenance, cleaning, manufacturing, food preparation or painting activity if that activity has the potential to result in the discharge of non-storm water or the discharge of pollutants to storm water.

Regulated Industrial Facility: means any facility subject to the State General Industrial Stormwater Permit; any other facility primarily engaged in manufacturing, processing, storage or handling of raw materials, processed bulk materials, or refuse; and any other facility with a total outdoor uncovered area of more than two (2) acres that is used for an Industrial Activity. Municipal Facilities are not Regulated Industrial Facilities, unless they are subject to the State General Industrial Stormwater Permit.

Residential Discharger: means, for an occupied residence, the occupants; and for a vacant residence, the owner and the manager of the residence.

RWQCB: means the California Regional Water Quality Control Board for the San Diego Region.

Significant Redevelopment: means (1) any Redevelopment in the County Urban Area that creates or adds at least 2,500 net square feet of additional impervious surface area within or within 200 feet of an ESA, where runoff from the Redevelopment would Discharge Directly To receiving waters within the ESA; and (2) any Redevelopment in the County Urban Area that creates or adds at least 5,000 net square feet of additional impervious surface area, if that Redevelopment involves grading any natural slope with a total pre-construction height of 20 feet or more and an average pre-construction slope from toe to top of 25% or more in an area of known erosive soil conditions; and (3) any Redevelopment in the County Urban Area in a

Priority Development Project Category that creates or adds at least 5,000 net square feet of additional impervious surface area.

Secondary Pollutant of Concern: means any of the following pollutants, discharged from a priority development project or significant redevelopment project, that is not a primary pollutant of concern for that project: sediments, nutrients, heavy metals, organic compounds, trash and debris, oxygen demanding substances, oil and grease, bacteria and viruses, and pesticides.

Standard Urban Stormwater Mitigation Plan: means the SUSMP.

State General Construction Stormwater Permit: means NPDES Permit No. CAS000002, Waste Discharge Requirements for Discharges of Storm Water Associated with Construction Activities, and any amendments thereto.

State General Industrial Stormwater Permit: means NPDES Permit No. CAS000001, Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities, and any amendments thereto.

Stop Work Order: means an order issued which requires that specifically identified activity or all activity on a site be stopped.

Storm Water: means surface runoff and drainage associated with storm events.

Stormwater Conveyance System: means private and public drainage facilities other than sanitary sewers within the unincorporated area of San Diego County by which urban run-off may be conveyed to Receiving Waters, and includes but is not limited to roads, streets, constructed channels, aqueducts, storm drains, pipes, street gutters, inlets to storm drains or pipes, or catch basins.

Stormwater Management: means the use of structural or non-structural BMPs that are designed to reduce urban run-off pollutant loads, discharge volumes, and/or peak discharge flow rates or velocities. When applied to the County or another municipality, stormwater management also includes planning and programmatic measures.

Stormwater Management Plan: means a plan, submitted on a County form or in a County-specific format in connection with an application for a County permit or other County approval, identifying the measures that will be used for stormwater and non-stormwater management during the permitted activity.

Stormwater Pollution Prevention Plan ["SWPPP"]: means a document (other than a Stormwater Management Plan), which meets the requirements for a Stormwater Pollution Prevention Plan set out in the State General Construction Stormwater Permit or State General Industrial Stormwater Permit. A Stormwater Pollution Prevention Plan submitted to the County must describe the BMPs to be implemented and other steps to be taken by the Discharger to meet the requirements of this Ordinance.

Storm Water Retrofit: means a stormwater management BMP designed for an existing development site or activity that previously had either no stormwater management BMPs in place or that relied on BMPs inadequate to meet the stormwater management requirements of the site or activity.

Structural BMP: means a BMP that relies on either a physical condition (other than an entirely natural and undisturbed condition), or on a constructed or installed device to reduce or prevent pollutants in stormwater discharges and authorized non-stormwater discharges. Constructed or enhanced BMPs that depend on natural materials and processes (e.g., constructed drainage swales or buffers, or constructed wetlands), and that require periodic maintenance to function as designed, are Structural BMPs.

Structural Post-Construction BMP: means a structural BMP (other than a temporary construction-related BMP) put in place in connection with a land development or redevelopment project to prevent or reduce contamination in stormwater or Receiving Waters, or to prevent or reduce erosion downstream from the project.

Structural Treatment BMPs: means a structural post construction BMP that treats or filters stormwater to remove pollutants, or that infiltrates stormwater to soils.

SUSMP: means Standard Urban Stormwater Mitigation Plan For Land Development Projects and Public Improvement Projects, adopted by the County Board of Supervisors on November 13, 2002, as it may thereafter be revised by the Director, Department of Public Works.

SWPPP: means Stormwater Pollution Prevention Plan.

SWRCB: means the State Water Resources Control Board.

Trauma Scene Post-Clean Up Residues: means residues that remain at a trauma scene after trauma scene wastes are removed pursuant to the Trauma Scene Waste Management Act, and after any spilled materials and fluids from vehicles are cleaned up. Bleach and similar chemicals used to clean a trauma scene are not trauma scene post-clean up residues

Tributary To an Impaired Water Body: a facility or activity is tributary to an impaired water body if urban runoff from that facility or activity enters (1) the stormwater conveyance system at a place and in a manner that will carry pollutants for which that water body is impaired in that discharge to the impaired water; (2) a flowing stream that will carry pollutants for which that water body is impaired in that discharge to the impaired water; or (3) an ephemeral stream that reaches the impaired water during storm events and that will carry pollutants for which that water body is impaired from the facility or activity to the impaired water body during such storm events.

Upset: means an exceptional incident in which there is unintentional and temporary noncompliance with technology based effluent limitations because of factors beyond the

reasonable control of the discharger. 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.

Urban Run-off: means all flows in a stormwater conveyance system in the County Urban Area other than point source discharges in violation of a site-specific NPDES permit. Urban run-off includes but is not limited to storm water, exempt non-stormwater discharges, and illicit discharges.

Water Main: means a potable or recycled water delivery line greater than or equal to four (4) inches in diameter.

Watercourse: means a permanent or intermittent stream or other body of water, either natural or improved, which gathers or carries surface water.

Water Quality Standards: are defined as the beneficial uses (e.g., swimming, fishing, municipal drinking water supply, etc.) of water and the water quality objectives adopted by the State or the United States Environmental Protection Agency to protect those uses.

Waters of the United States: means water subject to the regulatory jurisdiction of the United States under the Federal Clean Water Act and applicable case law. (In general, this includes "navigable" waters, waters tributary to "navigable" waters, and adjacent wetlands.)

SEC. 67.804. GENERAL PROVISIONS.

(a) Responsibility for Administration. This Ordinance shall be administered for the County of San Diego by its Authorized Enforcement Officials.

(b) Effective Date. This Ordinance shall take effect on February 20, 2002.

(c) Construction and Application. Interpretation of the meanings of parts of this Ordinance shall assure consistency with the purpose and intent of this Ordinance. This includes but is not limited to consistency with the requirements of NPDES Permit No. CAS 108758. This Ordinance is not intended to interfere with, abrogate or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this Ordinance should be considered minimum requirements, and where any provision of this Ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall take precedence. Stormwater and non-stormwater discharges regulated under a valid facility-specific NPDES permit or facility–specific RWQCB Waste Discharge Requirements permit are not subject to this Ordinance, but shall instead be regulated exclusively by the RWQCB.

(d) Exemption of Certain RWQCB-Permitted Discharges. Stormwater and non-stormwater discharges regulated under a valid facility-specific NPDES permit or facility–specific RWQCB Waste Discharge Requirements (WDR) permit (not including a state General Permit) are not subject to this Ordinance, but shall instead be regulated exclusively by the RWQCB, provided compliance with all relevant NPDES or WDR permit conditions is maintained to the satisfaction of the RWQCB. This subsection does not exempt Stormwater discharges at a facility with an NPDES or WDR permit that only addresses process discharges or non-stormwater discharges. This exemption also does not apply to County review of proposed development projects. These projects must still comply with County design requirements, even if future discharges from the project will be regulated under an RWQCB permit.

(e) Recycled Water. This ordinance is not intended to prohibit or prevent the use of recycled water, or the discharge of recycled water after use. This ordinance is intended to require the use of BMPs for such uses and discharges as necessary to protect human health and the environment.

(f) Severability and Validity. If any section of this Chapter is declared invalid by a court of law, the remaining sections shall remain valid.

(g) County Permits and Approvals.

(1) An application for any of the following discretionary permits or approvals shall be accompanied by plans demonstrating how the requirements of this Ordinance will be met, and the permit or approval shall not be approved unless the decision maker determines that the application complies with the requirements of this Ordinance:

a. Administrative Permit for Clearing
b. Final Map Modification
c. Grading Plans or Grading Permits, if approval is discretionary (including Modification or Renewal)
d. Improvement Plan (including Modification)
e. Landscape Plan
f. Major Use Permit (including Modification, Minor Deviation, or Extension)
g. Minor Use Permit (including Modification, Minor Deviation, or Extension)
h. Parcel Map Modification
i. Reclamation Plan
j. Site Plan (including Modification, Minor Deviation, or Extension)
k. Solid Waste Facility Permit

l. Tentative Map (including Resolution Amendment, Time Extension, Expired Tentative Map and Revised Tentative Map)

m. Tentative Parcel Map (including Resolution Amendment, Time Extension, Expired Tentative Parcel Map and Revised Tentative Parcel Map)

n. Watercourse Permit

(2) An application for any of the following ministerial permits or approvals shall be accompanied by plans demonstrating how the specifically applicable requirements, if any, set out in corresponding sections of Appendix A of this Ordinance will be met, and the permit or approval shall not be approved unless the decision maker determines that the application complies with those requirements.

a. Building Permit

b. Construction Right of Way Permit

c. Encroachment Permit

d. Excavation Permit

e. Grading Plans or Grading Permits, if approval is ministerial (including Modification or Renewal)

f. On-site wastewater system Permit

g. Underground Tank Permit

h. Well Permit

(h) Stormwater Standards Manual. The Stormwater Standards Manual attached as Appendix A is a part of this Ordinance. In most cases, the manual provides a choice of compliance methods. Authorized Enforcement Officials may provide additional flexibility using the Guidance Documents authorized in subsection (i) below. The SUSMP is not a part of this Ordinance; it is a guidance document.

(i) Guidance Documents. Any Authorized Enforcement Official may prepare, circulate for public comment, disseminate and maintain guidance documents addressing the use of pollution prevention practices and best management practices for specific activities or facilities, illicit connections, and illegal disposal.

These guidance documents may set out additional compliance alternatives that, in specified circumstances, can provide the same environmental protection that is afforded by the BMPs required by this Ordinance or specified in the Stormwater Standards Manual.

These guidance documents may also identify practices that have been determined by the Authorized Enforcement Official to be additional Best Management

Practices that may be implemented for Land Disturbance Activities and Land Development Activities to prevent or control pollution to the Maximum Extent Practicable. These additional Best Management Practices shall become mandatory for affected Dischargers only after being adopted into the Code, unless an Order is issued pursuant to subsection 67.804(i) of this Ordinance.

Authorized Enforcement Officials and Authorized Enforcement Staff may also take these guidance documents into account when determining whether any practices used by a Discharger, or proposed in a grading plan, a SWPPP, an enforcement settlement offer, or any other submittal to the County, are Best Management Practices that will prevent or control pollution to the Maximum Extent Practicable. These case-specific discretionary decisions may involve circumstances that were not anticipated when general guidance documents were prepared. Therefore, these guidance documents do not confer rights on Dischargers in these circumstances and do not constrain the discretion of Authorized Enforcement Officials or Authorized Enforcement Staff. Where appropriate, and provided the same protection is provided to the environment, Authorized Enforcement Officials and Authorized Enforcement Staff may depart from these guidance documents when making case-specific decisions authorized by this Ordinance.

(j) Significant Sources of Pollutants. Authorized Enforcement Officials shall identify Discharges and categories of facilities and activities that are a significant source of contaminants to Waters of the United States, despite compliance with this Ordinance. If any such contamination problem identified by the Authorized Enforcement Official involves more than five identified sources having similar characteristics, the Authorized Enforcement Official shall propose appropriate amendments to this Ordinance to better control the contamination at issue. If the contamination problem identified by the Authorized Enforcement Official is limited to fewer than five identified sources, the appropriate Dischargers shall be Ordered by the Authorized Enforcement Official or by Authorized Enforcement Staff to install, implement and maintain additional BMPs to prevent or reduce contamination in storm water and non-storm water to the maximum extent practicable. Any such Order shall specify a reasonable date by which those BMPs must be put in place. A failure to install, implement, or maintain additional BMPs as required by any such Order is a violation of this Ordinance.

(k) Determining Whether a Discharge is "Tributary To" an Impaired Water Body: Areas within which facilities and sources will be presumed to be tributary to an impaired water body are identified on the maps in Appendices C and D of this Ordinance. The presumption that a discharge is tributary to an impaired water body can be overcome for a particular discharge based on specific facts and analysis presented by a Discharger. In making a site-specific determination as to whether a discharge is tributary to an impaired water body, consideration may be given to the amount of water and pollutant discharged; to whether the pollutant

for which the water body is impaired is a suspended or dissolved pollutant; to whether the pollutant is volatile or degradable; and to whether the pollutant is substantially removed during transport by any natural or man-made features (sinks, infiltration areas, ponds or impoundments, vegetated swales or wetlands, media filtration devices, etc.) located between the site and the impaired water body. Any such analysis must consider common mechanisms for pollutant mobilization, remobilization, and transport over time. Any such analysis and determination shall be disclosed for public review and comment to the extent required by CEQA or by County procedures for permit issuance.

(l) Compliance Schedules: Existing facilities required to retrofit BMPs specified in the Stormwater Standards Manual shall complete those retrofits by July 1, 2003.

(m) Collection and Use of Storm water. An Authorized Enforcement Official may modify any requirement imposed by this Ordinance to allow the on-site collection and use of storm water, or the collection of storm water for delivery to and use at County-designated sites, provided the modified requirements are enforceable and provide equivalent environmental protection.

(n) Equivalent Methods Defense to asserted grading-related violations. Subject to the limitations set out in subsection (o) below, at sites where "major grading" activities as defined in section 87.208 of this code are undertaken pursuant to a valid County permit, any County-issued administrative citation or warning alleging that the absence or failure of a specific BMP at a construction site constitutes a violation of this Ordinance or an applicable County permit or approval, shall be subject to the following defenses:

i. The system of BMPs approved for use at the site in a County permit or other approval did not require that the missing or failed BMP be used;

ii. The absence of failure of the specific BMP was minor and temporary, and the "maximum extent practicable" standard in the Ordinance was met at all times because of the presence other BMPs at the site;

iii. The absence or failure of the specific BMP was minor and temporary, and would have been promptly corrected even in the absence of County enforcement under a previously existing program for inspection, repair and maintenance of BMPS, that ensured the timely correction of the condition; or,

iv. The absence or failure of the specific BMP was minor and temporary, and the other BMPs implemented at the site are shown, by reasonably contemporaneous sampling of stormwater runoff, to be reducing or eliminating pollutants as required by the ordinance.

(o) Limitations. The defenses set out in subsection (n) above shall not be available where the violation at issue consists of or was caused by any of the following:

i. Substitution of a less reliable or effective BMP for a BMP expressly required by this Ordinance, taking any applicable permit into account;

ii. Use of a BMP for slope erosion protection (e.g., an alternative spray) that has not been approved for use by the County;

iii. Any failure to install slope erosion BMPs when and where required;

iv. Significant violations, as determined by a hearing officer or court, that are also violations of the State General Construction Stormwater Permit, where applicable, excluding however violations of Number 5 of Section C of that permit, entitled "Special Provisions for Construction Activity"; or

v. Violations that are the subject of a separate and formal valid written Order issued by an Authorized Enforcement Official pursuant to subsections (a)(2), (a)(3) or (a)(5) of section 67.823 of this Ordinance, after a reasonable opportunity to cure the violations in response to the Order is provided, excluding however Orders issued pursuant to subsection (a)(2) to comply with section 67.807(a).

ARTICLE 2. DISCHARGE REGULATIONS, EXEMPT DISCHARGES, AND REQUIRED ACTIVITIES

SEC. 67.805. DISCHARGE PROHIBITIONS.

(a) Illegal Discharges. The discharge of Pollutants directly or indirectly into the Stormwater Conveyance System or Receiving Waters in non-stormwater is prohibited, except as exempted in Section 67.806 of this Ordinance. The discharge of Pollutants directly or indirectly into the Stormwater Conveyance System or Receiving Waters in stormwater is prohibited, unless the applicable requirements of this Ordinance have been met.

(b) Illicit Connection. The establishment of Illicit Connections is prohibited. The use of Illicit Connections is prohibited, even if the connection was established pursuant to a valid County permit and was legal at the time it was constructed.

(c) Litter, Dumps, and Stockpiles. Throwing, depositing, leaving, abandoning, maintaining or keeping materials or wastes on public or private lands in a manner and place where they may result in an Illegal Discharge is prohibited.

SEC. 67.806. DISCHARGES EXEMPTED FROM DISCHARGE PROHIBITIONS.

(a) Separately Permitted Discharges. Discharges called out in and regulated under a valid facility-specific NPDES permit or facility–specific RWQCB Waste Discharge Requirements (WDR) permit, not including a state General Permit, shall be regulated exclusively by the RWQCB and are exempt from discharge prohibitions established by this Ordinance, provided compliance with all relevant permit conditions is maintained to the satisfaction of the RWQCB. See subsection 67.804(d).Stormwater discharges at a facility with an NPDES or WDR permit that only addresses process discharges or non-stormwater discharges are not exempted by this subsection or by subsection 67.804(c).

(b) State General Permit Discharges. Stormwater discharges regulated under the State General Industrial Stormwater Permit or State General Construction Stormwater Permit, are exempt from discharge prohibitions established by this Ordinance, provided compliance with all relevant general permit conditions is maintained to the satisfaction of the RWQCB. These discharges are not otherwise exempted from this Ordinance.

(c) Certain Agricultural Discharges. Non-stormwater agricultural discharges that the SWRCB or RWQCB have explicitly determined to allow pursuant to a written waiver or formal policy, including any such discharges from commercial nurseries and greenhouses that are covered by such waivers or policies, are exempt from the discharge prohibitions established by this Ordinance, provided compliance with all relevant permit, waiver or policy conditions established by the SWRCB or

RWQCB are maintained to the satisfaction of the SWRCB or RWQCB. These discharges are not otherwise exempt from this Ordinance.

(d) Categorically Allowed Discharges Subject to Section 67.807. The following categories of non-stormwater discharges are exempt from discharge prohibitions established by this Ordinance, but Dischargers must install, implement and maintain the applicable BMPs set out in section 67.807 of this Ordinance, and any applicable BMPs specified in the Stormwater Standards Manual:

- discharges from potable water sources other than water main breaks;
- diverted stream flows (provided required permits are obtained);
- flows from riparian habitats and wetlands;
- foundation drains (not including active groundwater dewatering systems);
- individual residential washing of vehicles;
- irrigation water including recycled water used for irrigation;
- landscape irrigation;
- lawn watering;
- rising ground water;
- swimming pool discharges (if dechlorinated to less than one PPM chlorine);
- uncontaminated ground water infiltration to storm drains;
- uncontaminated pumped ground water;
- water from crawl space pumps; and
- water from footing drains (not including active groundwater dewatering systems).

(e) Categorically Allowed Discharges Not Subject to Section 67.807. The following categories of non-stormwater discharges are exempt from discharge prohibitions established by this Ordinance and are not subject to section 67.807. Dischargers must however comply with any Order issued pursuant to section 67.804(i) of this Ordinance; and must install, implement and maintain the specifically applicable minimum BMPs, if any, set out in the Stormwater Standards Manual:

- air conditioning condensation;
- flows from emergency fire fighting activities;
- springs; and
- water line flushing.

(f) Exemptions to Protect Public Health and Safety. Discharges of trauma scene post-cleanup residues, and other discharges determined by any Authorized Enforcement Official or by Authorized Enforcement Staff to be necessary to protect public health and safety are exempt from discharge prohibitions established by this Ordinance, provided any conditions on such discharges imposed by the Authorized Enforcement Official or Authorized Enforcement Staff are satisfied. In emergency circumstances, the determination of an Authorized

Enforcement Official or Authorized Enforcement Staff that a discharge is necessary may initially be oral but must be promptly confirmed in writing by an Authorized Enforcement Official or by Authorized Enforcement Staff. In non-emergency situations, a prior written determination is required to exempt a discharge.

(g) On-site wastewater systems. Discharges to the subsurface from permitted properly functioning on-site wastewater systems are not prohibited by this Ordinance.

(h) Exemptions Not Absolute. Any discharge category described in subsection (b) above that is a significant source of pollutant to waters of the United States shall be prohibited from entering the stormwater conveyance system, or shall be subjected to a requirement to implement additional BMPs to reduce pollutants in that discharge to the maximum extent practicable. Such prohibitions shall be effective on a schedule specified by an Authorized Enforcement Official in a written notice to the Discharger. That schedule may take into account the nature and severity of any effects caused by the discharge; and the time required to design, engineer, fund, procure, construct and make appropriate BMPs operational.

SEC. 67.807. BEST MANAGEMENT PRACTICE REQUIREMENTS AND GENERAL REQUIREMENTS APPLICABLE TO ALL DISCHARGERS.

(a) Applicable Requirements. All Dischargers in the County Urban Area must comply with the generally applicable prohibitions and requirements in sections 67.801 through 67.807 of this Ordinance, and must also comply with any other parts of this Ordinance (including relevant parts of Appendix A) that are applicable to the type of facility or activity owned or operated by that Discharger.

(b) Minimum Best Management Practices for All Dischargers. All dischargers in the County Urban Area must install, implement and maintain at least the following minimum Best Management Practices:

(1) Eroded soils. Prior to the rainy season, Dischargers must remove or secure any significant accumulations of eroded soils from slopes previously disturbed by clearing or grading, if those eroded soils could otherwise enter the Stormwater Conveyance System or Receiving Waters during the rainy season.

(2) Pollution Prevention. Dischargers employing ten or more persons on a full-time basis shall implement those stormwater pollution prevention practices that are generally recognized in that Discharger's industry or business as being effective and economically advantageous.

(3) Prevention of Illegal Discharges. Illicit connections must be eliminated (even if the connection was established pursuant to a valid permit and was legal at the time it was constructed), and illegal discharge practices eliminated.

(4) Slopes. Completed slopes that are more than five feet in height, more than 250 square feet in total area, and steeper than 3:1 (run-to-rise) that have been disturbed at any time by clearing, grading, or landscaping, shall be protected from erosion prior to the first rainy season following completion of the slope, and continuously thereafter.

(5) Storage of Materials and Wastes. All materials and wastes with the potential to pollute urban runoff shall be stored in a manner that either prevents contact with rainfall and storm water, or contains contaminated runoff for treatment and disposal.

(6) Use of Materials. All materials with the potential to pollute urban run off (including but not limited to cleaning and maintenance products used outdoors, fertilizers, pesticides and herbicides, etc.) shall be used in accordance with label directions. No such product may be disposed of or rinsed into Receiving Waters or the Stormwater Conveyance System.

(c) Inspection, Maintenance, Repair and Upgrading of BMPs. BMPs at manned facilities must be inspected by the Discharger before and following predicted rain events. BMPs at unmanned facilities must be inspected by the Discharger at least once during the rainy season and at least once between each rainy season. These BMPs must be maintained so that they continue to function as designed. BMPs which fail must be repaired as soon as it is safe to do so. If the failure of a BMP indicates that the BMPs in use are inappropriate or inadequate to the circumstances, the BMPs must be modified or upgraded to prevent any further failure in the same or similar circumstances.

(d) Stormwater Pollution Prevention Plan. An Authorized Enforcement Official may require a Commercial, Industrial or Land Disturbance Activities Discharger to prepare and submit a Stormwater Pollution Prevention Plan (SWPPP) for approval by that official if (1) the Discharger does not come into compliance with this Ordinance after one or more warnings or other enforcement action, because BMPs are inadequate or are not being adequately maintained; or (2) the facility or activity at issue is a significant source of contaminants to Receiving Waters despite compliance with this Ordinance. Any Discharger required to submit and to obtain approval of a SWPPP shall install, implement and maintain the BMPs specified in the approved SWPPP.

The SWPPP shall identify the BMPs that will be used by the Discharger to prevent or control pollution of storm water to the Maximum Extent Practicable. If

the facility is an industrial facility, the SWPPP submitted to the County shall at a minimum meet the requirements of the State NPDES General Industrial Stormwater Permit. If the activity at issue is a construction or land disturbance activity, the SWPPP submitted to the County shall at a minimum meet the requirements of the State NPDES General Construction Stormwater Permit. If a facility required to submit a SWPPP to the County discharges non-stormwater to ground water, the facility shall obtain an RWQCB permit as required by the State Water Code, and shall describe the requirements of that permit in the SWPPP.

Whenever submission of a SWPPP is required pursuant to this ordinance, an Authorized Enforcement Official or Authorized Enforcement Staff may take existing County guidance documents into account when determining whether the practices proposed in the SWPPP are best management practices that will prevent or control pollution to the required level of maximum extent practicable.

(e) Notification of Spills, Releases and Illegal Discharges. Spills, releases, and illegal discharges of Pollutants to Receiving Waters or to the Stormwater Conveyance System shall be reported by the Discharger as required by all applicable state and federal laws. In addition, any such spills, releases and illegal discharges with the potential to endanger health, safety or the environment shall be reported to the Director or Assistant Director, Department of Public Works within 24-hours after discovery of the spill, release or discharge. If safe to do so, necessary actions shall be taken to contain and minimize the spill, release or illegal discharge.

(f) Sampling, Testing, Monitoring, and Reporting. Commercial, Industrial or Land Disturbance Activities Dischargers shall perform the sampling, testing, monitoring and reporting required by this Ordinance. In addition, an Authorized Enforcement Official or Authorized Enforcement Staff may order a Discharger to conduct testing or monitoring and to report the results to the County if (1) the Authorized Enforcement Official determines that testing or monitoring is needed to determine whether BMPs are effectively preventing or reducing pollution in stormwater to the maximum extent practicable, or to determine whether the facility is a significant source of contaminants to Receiving Waters; or (2) the Authorized Enforcement Official or Authorized Enforcement Staff determines that testing or monitoring is needed to assess the impacts of an illegal discharge on health, safety or the environment; or (3) an Illegal Discharge has not been eliminated after written notice by an Authorized Enforcement Official or Authorized Enforcement Staff; or (4) repeated violations have been documented by written notices from Authorized Enforcement Officials or Authorized Enforcement Staff; or (5) the RWQCB requires the County to provide any information related to the Discharger's activities.

Testing and monitoring ordered pursuant to this subsection may include the following:

(1) Visual monitoring of dry weather flows, wet weather erosion, and/or BMPs;

(2) Visual monitoring of premises for spills or discharges;

(3) Laboratory analyses of stormwater or non-stormwater discharges for Pollutants;

(4) Background or baseline monitoring or analysis; and

(5) Monitoring of Receiving Waters or sediments that may be affected by Pollutant discharges by the Discharger (or by a group of Dischargers including the Discharger).

The Authorized Enforcement Official or Authorized Enforcement Staff may direct the manner in which the results of required testing and monitoring are reported, and may determine when required sampling, testing or monitoring may be discontinued.

(g) Mitigation. All Illegal Discharges must be mitigated within a reasonable period of time to correct or compensate for all damage to the environment caused by the illegal discharge. The Authorized Enforcement Official or Authorized Enforcement Staff who issued notice to the Discharger that a discharge was illegal, or Authorized Enforcement Staff designated by that official, shall determine whether mitigation measures proposed or completed by the discharger meet this standard. The Authorized Enforcement Official or Authorized Enforcement Staff shall require the Discharger to submit a mitigation plan and schedule by a specified date prior to taking action, and to submit a summary of completed mitigation by a specified date.

(h) Access for inspections. All dischargers shall provide access to authorized enforcement staff, upon reasonable notice, for inspection of facilities and discharges subject to this ordinance.

SEC. 67.808. ADDITIONAL MINIMUM BEST MANAGEMENT PRACTICE REQUIREMENTS FOR RESIDENTIAL ACTIVITIES AND FACILITIES.

(a) Applicable Requirements. The requirements in this section apply to all Residential Dischargers within the County Urban Area and within County-designated high priority non-urban residential discharge areas, as shown on the map at Appendix B. All Residential Dischargers in this mapped area must install, implement and maintain the BMPs identified in Section 67.807(b) for all Dischargers, and at least the additional minimum BMPs specified below for the category of activities conducted by that Discharger.

(b) Motor Vehicle or Boat Repair and Maintenance.

(1) Motor Vehicle and boat repair and maintenance activity shall be performed under a permanent roof or other permanent cover, if such space is available. Maintenance and repair activities that are conducted without cover or without BMPs to prevent pollutant discharges are prohibited during times of precipitation.

(2) Any release of fluids during repair or maintenance shall be promptly contained and cleaned up. Any absorbent materials used must be disposed of properly.

(3) Automotive and boat materials and wastes must be stored indoors, or under cover, or in secure and watertight containers.

(c) Motor Vehicle Washing.

(1) Vehicles shall be washed over porous surfaces such as lawns and gravel areas where feasible.

(2) Remaining detergent solutions prepared for use in vehicle washing, but not used up in that process, may not be disposed by emptying buckets or other containers directly or indirectly to the stormwater conveyance system or Receiving Waters. Disposal to the sanitary sewer (e.g., through a sink, toilet or floor drain) or to a porous surface is required.

(3) The use of "hose off" or single use engine degreasing chemicals is prohibited, unless captured and disposed of properly.

(4) Motor vehicle washing other than individual residential motor vehicle washing is prohibited, unless all wash and rinse water is diverted to or contained and disposed to a porous area or the sanitary sewer.

(d) Motor Vehicle Parking.

(1) Residents shall remove excessive accumulations of oil and grease deposited by vehicles they own from parking areas, using dry cleaning methods (e.g., absorbents, scraping, vacuuming, or sweeping).
(2) Residents shall move vehicles from streets when notified to do so to allow street cleaning.

(e) Home and Garden Care Activities and Product Use.

(1) Irrigation systems should be adjusted to avoid excessive runoff.

(2) Spills of gardening chemicals, fertilizers or soils to non-porous surfaces must be cleaned up, and properly disposed.

(3) Lawn and garden care products must be stored in closed labeled containers; or in covered areas; or off the ground under protective tarps.

(4) Household hazardous waste may not be disposed directly or indirectly to the trash or to the street, gutter or storm drain.

(f) Home Care and Maintenance.

(1) Painting equipment may not be cleaned out in or over streets, sidewalks or gutters.

(2) Action shall be taken to minimize and contain all spills of hazardous materials, if it is safe to do so.

(3) Household hazardous materials must be stored indoors or under cover, and in closed and labeled containers.

(4) Household wash waters (carpet cleaning, mop water, washing machine effluent, other gray water, paint wash-up water, etc.) may not be disposed of to the street, gutter or storm drain or to Receiving Waters. Washing machine effluent and sink wastes may not be discharged to the ground. Disposal to the sanitary sewer (e.g., through a sink, toilet or floor drain) or (where not prohibited) to a porous surface is required.

(g) Manure and Pet Waste Management.

(1) Manure deposited by confined livestock, horses or other large animals on uncovered areas, from which runoff could enter receiving waters or the stormwater conveyance systems, must be cleaned up at least twice weekly and either be composted, or be stored prior to disposal in a manner that prevents contact with runoff to receiving waters or the stormwater conveyance system.

(2) Areas used for composting such manure must be located, configured or managed to prevent runoff to receiving waters or the stormwater conveyance system.

(3) Pet waste shall not be disposed to the stormwater conveyance system or receiving waters.

(h) Private Sewer Laterals and On-site wastewater systems.

(1) Private sewer laterals shall be cleaned, maintained and when necessary replaced to prevent seepage and spills. On-site wastewater systems shall be pumped, maintained and when necessary modified or replaced to prevent spills.

(2) Spills from private sewer laterals and on-site wastewater systems shall be contained and cleaned-up in a manner that minimizes any release of pollutants to the stormwater conveyance system or receiving waters.

(3) Any release from a private sewer lateral that enters the stormwater conveyance system or receiving waters shall be immediately reported to the County.

(4) Failed on-site wastewater systems shall be repaired or replaced, after issuance of all required permits and approvals.

SEC. 67.809. ADDITIONAL MINIMUM BEST MANAGEMENT PRACTICE REQUIREMENTS FOR COMMERCIAL ACTIVITIES AND FACILITIES.

(a) Priorities and Requirements. Regulated Commercial Facilities are classified in this section as High Priority or All Other, and additional requirements are imposed on those facilities by this section based on those classifications. All commercial Dischargers must install, implement and maintain at least the additional minimum Best Management Practices, if any, specified in this section or in the County Stormwater Standards Manual for the priority classification and category of activity or facility owned or operated by that Discharger. All Regulated Commercial Facilities shall review their facilities, activities, operations and procedures at least annually to detect and eliminate illicit connections and illegal discharges. Corrective training shall be provided as needed (and documented in training records) whenever an illegal disposal practice is discovered.

(b) High Priority Commercial Facilities Identified. As required by NPDES Permit No. CAS 0108758, facilities in the County Urban Area having one or more of the following characteristics are High Priority Commercial Facilities:

(1) The facility is a Regulated Commercial Facilities primarily engaged in one of the following commercial activities:

- Airplane mechanical repair, maintenance, fueling, or cleaning;
- Motor Vehicle (or other vehicle) parking lots and storage facilities;
- Motor Vehicle and other vehicle body repair or painting;
- Motor Vehicle mechanical repair, maintenance, fueling, or cleaning;

- Boat mechanical repair, maintenance, fueling, or cleaning;
- Botanical or zoological gardens and exhibits;
- Cement mixing or cutting;
- Cemeteries;
- Eating or drinking establishments;
- Equipment repair, maintenance, fueling, or cleaning;
- Golf courses, parks and other recreational areas/facilities;
- Landscaping;
- Marinas;
- Masonry installation;
- Mobile Motor Vehicle or other vehicle washing;
- Mobile carpet, drape or furniture cleaning;
- Nurseries and greenhouses;
- Painting and coating;
- Pest control services;
- Pool and fountain cleaning;
- Port-a-Potty servicing; or
- Retail or wholesale fueling.

(2) The facility is a Regulated Commercial Facility that has outdoor Industrial Areas totaling two (2) acres or more or an outdoor parking lot for 100 or more vehicles; and stormwater or runoff from the facility may adversely affect impaired waters or waters within an environmentally sensitive area.

(3) The facility is a Regulated Commercial Facility and has been notified in writing by an Authorized Enforcement Official or Authorized Enforcement Staff that it is a High Priority Commercial Facility. Such designations shall take effect 90 days after mailing or service of this notice. These designations shall be made where the facility discharges a pollutant load in storm water or runoff that causes or contributes to the violation of water quality standards.

(c) Additional Minimum Best Management Practices for All Regulated Commercial Facilities. All Regulated Commercial Facilities shall install, implement and maintain the BMPs specified in the County Stormwater Standards Manual (Appendix A of this Ordinance) in the following areas:

- Employee training
- Stormwater pollution prevention plans;
- Storm drain tileage and signing;
- Annual review of facilities and activities;
- Pollution prevention;
- Materials and waste management
- Vehicles and equipment;

- Outdoor areas.

(d) Additional Minimum Best Management Practices for Specific Types of Regulated Commercial Facilities. Regulated Commercial Facilities, including but not limited to the types of facilities and activities listed below, shall install, implement and maintain the BMPs specified in the County Stormwater Standards Manual for each such type of facility or activity.

- Vehicle and equipment repair and maintenance;
- Outdoor storage of vehicles and equipment;
- Retail and wholesale fueling;
- Vehicle body repair and painting;
- Painting and coating;
- Eating and drinking establishments;
- Marinas;
- Botanical and zoological gardens and exhibits;
- Golf courses, parks, and other recreational facilities;
- Parking lots and storage facilities
- Cement mixing and cutting;
- Mobile carpet, drape, and furniture cleaning;
- Nurseries and greenhouses;
- Masonry storage or installation;
- Pool and fountain cleaning;
- Portable sanitary toilet servicing;
- Mobile vehicle washing;
- Pest control;
- Landscaping.

SEC. 67.810. ADDITIONAL MINIMUM BEST MANAGEMENT PRACTICE REQUIREMENTS FOR INDUSTRIAL ACTIVITIES AND FACILITIES.

(a) Priorities and Requirements. Regulated Industrial Facilities are classified in this section as High, Medium and Low priority, and additional requirements are imposed on those facilities by this section based on those classifications. All Industrial Dischargers must install, implement and maintain at least the additional minimum BMPs, if any, specified in this section or in the County Stormwater Standards Manual for the priority classification and category of activity or facility owned or operated by that Discharger. All Regulated Industrial Facilities shall review their facilities, activities, operations and procedures at least annually to detect and eliminate illicit connections and illegal discharges. Corrective training shall be provided as needed (and documented in training records) whenever an illegal disposal practice is discovered.

(b) High Priority Industrial Facilities. Regulated Industrial Facilities that have one or more of the characteristics listed below are High Priority Industrial Facilities:

(1) The facility is subject to the State General Industrial Stormwater Permit, taking into account all of the provisions of that permit.

(2) The facility is a Regulated Industrial Facility and Stormwater or runoff from the facility is Tributary To an Impaired Water Body, and the facility generates a pollutant for which that water body is impaired. Appendix C maps areas that the County has determined are potentially tributary to impaired water bodies.

(3) The facility is a Regulated Industrial Facility and is located within or adjacent to (i.e., within 200 ft. of), or discharges directly to, a coastal lagoon or a receiving water body within an ESA. Appendix D maps coastal lagoons and receiving waters within ESAs, plus a 200-foot adjacent area.

(4) The facility is subject to Section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA).

(5) The facility was notified in writing by an Authorized Enforcement Official or Authorized Enforcement Staff that it has been designated a High Priority Industrial Facility. Such designations shall take effect 90 days after mailing or service of notice. These designations shall be made where the facility discharges a pollutant load in stormwater or runoff that causes or contributes to the violation of water quality standards.

(c) Medium Priority Industrial Facilities. Regulated Industrial Facilities that are not High Priority Industrial Facilities, but which employ 50 or more persons, are Medium Priority Industrial Facilities.

(d) Low Priority Industrial Facilities. Regulated Industrial Facilities that are not High Priority Industrial Facilities or Medium Priority Industrial Facilities are Low Priority Industrial Facilities.

(e) Additional Minimum BMPs and Other Additional Requirements for High Priority Industrial Facilities.

(1) Notice of Intent. High Priority Industrial Dischargers required to comply with the State Industrial General Stormwater Permit shall maintain on site and make available for inspection on request by the County the state-issued Waste Discharge Identification Number (WDID) for the facility, and a copy of the Notice of Intent (NOI) filed with the SWRCB pursuant to that permit. The Discharger shall submit the WDID and a copy of that

NOI to the County by mail if directed to do so by an Authorized Enforcement Official or Authorized Enforcement Staff.

(2) Stormwater Pollution Prevention Plan. Dischargers required to prepare a SWPPP under the State General Industrial Stormwater Permit must prepare the Plan, implement the Plan and maintain it at the site readily available for review. If a High Priority Industrial Facility is not required to prepare a state SWPPP, the facility shall prepare a SWPPP, submit that SWPPP for County approval or modification and approval, implement the SWPPP, and maintain it on site. Failure to comply with an applicable state-required or County-required SWPPP is a violation of this Ordinance.

(3) Pollution Prevention Practices. High Priority Industrial Facilities shall consider and where determined to be appropriate by the facility shall implement the following measures to prevent the pollution of stormwater and runoff:

- The use of smaller quantities of toxic materials or substitution of less toxic materials;
- Changes to production processes to reduce waste;
- Decreases in waste water flows;
- Recycling of wastes as part of the production process;.
- Segregation of wastes, and
- Treatment of wastes on site to decrease volume and/or toxicity.

(4) Non-Structural BMPs. High Priority Industrial Facilities shall incorporate into the SWPPP, and install implement and maintain, the following non-structural BMPs. The implementation of these practices shall be consistent with specifications, if any, contained in the County Stormwater Standards Manual.

- BMPs for material handling and storage of significant materials;
- BMPs for non-hazardous waste handling and recycling;
- Employee training programs;
- Good housekeeping practices;
- Preventive maintenance practices;
- Self inspection and quality assurance practices; and
- Spill response planning.

(5) BMPs for Specific Activities. High Priority Industrial Facilities shall incorporate into the SWPPP, and install implement and maintain BMPs as specified in the County Stormwater Standards Manual for any commercial activities conducted at the facility (as identified in section 67.809(c)), and for areas at the facility where industrial activities are conducted. Industrial activities include but are not limited to the following:

- Raw or processes materials bulk storage;
- Mixing, where there is the potential for release of a pollutant;
- Cutting, trimming or grinding in connection with a production process;
- Casting, forging, or forming;
- Hazardous materials storage (including tanks);
- Construction, painting and coating;
- Pesticide or other chemical products formulation or packaging;
- Process water pre-treatment;
- Solid waste storage;
- Waste water treatment;
- Welding;
- Blasting;
- Chemical treatment; and
- Power washing.

(6) Additional Structural BMPs. High Priority Industrial Facilities shall incorporate into the SWPPP, and install, implement and maintain one or more of the additional structural BMPs listed below where practicable, if use of such BMPs would significantly reduce pollution in run-off from the facility. The Discharger shall determine in the first instance which of these BMPs to implement. However, an Authorized Enforcement Official or Authorized Enforcement Staff can order that additional BMPs be used at a particular facility pursuant to section 67.804(i).

- Overhead coverage of outdoor work areas or chemical storage;
- Retention ponds, basins, or surface impoundments that confine stormwater to the site;
- Berms and concrete swales or channels that divert run-on and runoff away from contact with pollutant sources;
- Secondary containment structures; and
- Treatment controls, e.g., infiltration devices and oil/water separators, to reduce pollutants in stormwater or authorized non-stormwater discharges.

(f) Monitoring at High Priority Industrial Facilities. Dischargers owning or operating High Priority Industrial Facilities required to conduct monitoring under the State Industrial General Stormwater Permit shall make records of such monitoring available for inspection, and submit a copy of such records to the County if directed to do so by an Authorized Enforcement Official or Authorized Enforcement Staff. State exceptions from monitoring requirements are also applicable to this requirement, and group monitoring approved by the State is also acceptable to the County. The County may direct that any required records be submitted in a specified electronic format.

Dischargers owning or operating manned High Priority Industrial Facilities that are not required to conduct monitoring under the State Industrial General Stormwater Permit, and which would not qualify for an exemption from monitoring under the terms of that permit if the permit were applicable, must develop and implement a monitoring program that meets the following minimum criteria:

(1) Quantitative stormwater data must be obtained from two storm events in a year;

(2) These monitoring events must address:

- Pollutants listed in any effluent guidelines subcategories applicable to the facility;
- Pollutants with effluent limits established by an existing NPDES permit for that facility;
- Oil/grease or total organic carbon;
- pH;
- Total suspended solids;
- Specific conductance; and
- Toxic chemicals and other pollutants likely to be present in stormwater discharges.

This monitoring must be conducted under the conditions set out in the State Industrial General Stormwater Permit. The Discharger must retain records of such monitoring on site, make such records available for inspection, and submit a copy of such records to the County if directed to do so by an Authorized Enforcement Official or Authorized Enforcement Staff.

(g) Medium Priority Industrial Facilities. Medium Priority Industrial Facilities must prepare and retain on site, and make available for inspection, a written report verifying that they have assessed their status with respect to the criteria for classifying High Priority Industrial Facilities set out in subsection (b) above. These facilities must also meet the requirements for Low Priority Industrial Facilities set out in subsection (h) below.

(h) Low Priority Industrial Facilities. Low Priority Industrial Facilities must meet the requirements set out in Sections 67.804 through 67.807 of this Ordinance for all Discharges, the requirements set out in section 67.809 of this Ordinance for High Priority Commercial Facilities, and any applicable requirements in sections 67.813 through 67.816 of this Ordinance.

SEC. 67.811. ADDITIONAL MINIMUM BEST MANAGEMENT PRACTICE REQUIREMENTS FOR AGRICULTURAL OPERATIONS.

(a) Nursery and Greenhouse Operations. Pursuant to NPDES Permit No. CAS 0108758, nursery and greenhouse operations are classified as commercial operations for purposes of this Ordinance, and are subject to all requirements for Regulated Commercial Facilities set out in this Ordinance.

(b) Agricultural Grading and Clearing. The BMP requirements imposed by section 67.817 of this Ordinance for land disturbance activities apply to agricultural grading and clearing, whether or not a County-issued grading and clearing permit is required for that activity. Tilling or cultivating land exclusively for the purpose of growing plants or animals is not considered to be grading or clearing, provided all disturbed material remains on the same site, the tilling or cultivating will not block or divert any natural drainage way, and the land to be tilled or cultivated has been in agricultural production for at least one (1) of the preceding five (5) years.

(c) Land Development Associated with Agricultural Operations. The requirements imposed by section 67.818 of this Ordinance for land development activities apply to such activities when they are associated with agricultural operations.

(d) Manure Management.

(1) Where practicable, all runoff from areas where livestock, horses or other large animals are confined must be collected and managed in a manner that avoids a discharge to the stormwater conveyance system or receiving waters. Where this is not practicable, manure must be cleaned up at least twice weekly; and must either be composted, or stored prior to disposal.

(2) Areas used for storing or composting manure must be located, configured or managed to prevent runoff to receiving waters or the stormwater conveyance system.

(3) Animal wastes shall not be disposed to the stormwater conveyance system or receiving waters.

(e) Other Agricultural Operations. Other agricultural operations are subject to the discharge prohibitions and other requirements set out in sections 67.801 through 67.806 of this Ordinance. Agricultural operations located within or adjacent to (i.e., within 200 ft. of), or which discharge directly to an impaired water body (Appendix C) or a coastal lagoon or a receiving water body within an ESA (Appendix D), are also subject to the requirements set out in section 67.807.

SEC. 67.812. ADDITIONAL MINIMUM BEST MANAGEMENT PRACTICE REQUIREMENTS FOR MUNICIPAL AND COUNTY OF SAN DIEGO ACTIVITIES AND FACILITIES.

(a) Municipal Facilities. Municipal Facilities must meet the requirements set out in sections 67.801 through 67.807, and where applicable, sections 67.817 and 67.818 of this Ordinance. In addition, these facilities and activities must install, implement and maintain at least the additional minimum Best Management Practices, if any, specified in section 67.810 or in the County Stormwater Standards Manual, for industrial areas and activities at the municipal facility.

(b) Public Improvement Projects. It is the policy of the County that public improvement projects in the County shall conform to the requirements this ordinance would impose on similar private development projects within the county urban area. These projects must meet the requirements set out in sections 67.801 through 67.807, and where applicable, sections 67.817 and 67.818 of this Ordinance, and must be designed and constructed in accordance with the SUSMP.

SEC. 67.813. COUNTY STORMWATER STANDARDS MANUALS.

(a) Manual a Part of this Ordinance. The County Stormwater Standards Manual contained in Appendix A of this Ordinance is a part of this Ordinance. All Dischargers who are required by this Ordinance to install, implement and maintain BMPs shall ensure that their selection of BMPs is consistent with the applicable specifications, if any, contained in the County Stormwater Standards Manual, for the category and priority of activity or facility owned or operated by that Discharger. All BMPs installed, implemented or maintained to meet the requirements of this ordinance must conform to the applicable specifications, if any, set out in this Manual.

(b) Existing Facilities: The Stormwater Standards Manual sets out minimum BMPs and other objective specifications for specific types and categories of existing facilities and activities. Where minimum BMPs and objective specification are specified, they are mandatory. Where no minimum BMPs have been specified in the Stormwater Standards Manual for a type and category of facility or activity, only the requirements set out in this Ordinance are applicable. Deviations from the minimum BMPs set out in the manual are allowed in the following circumstances: (1) the County determines pursuant to subsection 67.804(j) of this Ordinance to issue an Order to require alternative BMPs, and provides the required written notice; or (2) a County Guidance Document prepared pursuant to subsection 67.804(i) sets out additional compliance alternatives that may be used in lieu of the BMPs specified in the manual, and the Discharger secures a permit enforceable by the County that requires the use of specific equally effective alternative BMPs.

(c) Ministerial Land Development Projects: Requirements applicable to development projects requiring only the kinds of ministerial permits listed in subsection 67.804(g)(2) of this Ordinance are set out in separately identified sections of the manual. Other requirements in the manual are not applicable to these projects during the development process. However, some additional requirements will apply to completed projects when they become subject to this Ordinance as residential, commercial or industrial facilities.

(d) Discretionary Land Development and Redevelopment Projects: The manual sets out minimum BMPs, other objective specifications, and Performance Standards for Land Development projects requiring one or more of discretionary permits listed in subsection 67.804(g)(1) of this Ordinance. The minimum BMPs and other objective specifications in the manual are applicable to both ministerial and discretionary land development projects. The Performance Standards in the manual are applicable to projects that require a discretionary County permit or approval, and shall be implemented through specific permit conditions. Development project proponents must determine whether their project design and associated BMPs will meet these Performance Standards for their facility or activity, and must redesign their project and/or install, implement and maintain additional BMPs where needed to meet applicable Performance Standards.

(e) Conflicting or More Detailed Requirements. In case of any conflict between any applicable minimum BMPs specified in sections 67.807 and 67.807.2 of this Ordinance, and any applicable requirements described in more detail for a particular type of facility or activity in the County Stormwater Standards Manual, the requirement in the Manual shall prevail.

SEC. 67.814. [Reserved]

SEC. 67.815. [Reserved]

SEC. 67.816. [Reserved]

SEC. 67.817. ADDITIONAL REQUIREMENTS FOR LAND DISTURBANCE ACTIVITIES.

(a) Permit Issuance. No land owner or development project proponent shall receive any County grading, clearing, building or other land development permit required for Land Disturbance Activity without first meeting the requirements of this Ordinance with respect to the portion of the development project and the Land Disturbance Activity to which the permit at issue would apply.

(b) Owners and Operators Both Responsible and Liable. Persons or entities performing Land Disturbance Activities (including but not limited to construction activities) in the County, and the owners of land on which Land Disturbance

Activities are performed, are Dischargers for purposes of this Ordinance; provided however that a local government or public authority is not a Discharger as to activities conducted by others in public rights of way.

(c) Stormwater Management Plan. All applications to the County for a permit or approval associated with a Land Disturbance Activity must be accompanied by a Stormwater Management Plan, on a form or in a format specified by the County. The Stormwater Management Plan shall specify the manner in which the Discharger/Applicant will implement the BMPs required by this Ordinance for the activity at issue, including but not limited to the applicable BMPs required by subsection (d) below.

(d) Additional Minimum BMPs for Land Disturbance Activities. Whether a County permit or approval is required or not, and whether a Stormwater Management Plan is required to be submitted or not, all Discharges engaged in Land Disturbance Activities shall implement BMPs as detailed in the County Stormwater Standards Manual in the following additional areas if applicable to the project:

(1) Erosion control on slopes;
(2) Erosion control on flat areas; or BMPs to prevent runoff from or to desilt runoff from flat areas;
(3) Runoff velocity reduction;
(4) Sediment control;
(5) Offsite sediment tracking control;
(6) Materials management;
(7) Waste management;
(8) Vehicle and equipment management;
(9) Water conservation;
(10) Structure construction and painting;
(11) Paving operations;
(12) Dewatering operations;
(13) Planned construction operations;
(14) Downstream erosion control;
(15) Prevention of non-stormwater discharges;
(16) Protection of ground water; and
(17) Well development.

(e) Control to the Maximum Extent Practicable. All Dischargers engaged in Land Disturbance Activities must install, implement and maintain those additional BMPs, if any, that are needed to prevent or reduce pollutant discharges in stormwater from land disturbance to the MEP.

(f) Notice of Intent. Dischargers required to comply with the State Construction General Stormwater Permit shall maintain on site and make available for

inspection on request by the County any state-issued Waste Discharge Identification Number (WDID) for the site, and a copy of the Notice of Intent (NOI) filed with the SWRCB pursuant to that permit.

(g) Stormwater Pollution Prevention Plan. Dischargers required to prepare a SWPPP under the State General Construction Stormwater Permit must prepare the Plan, implement the Plan and maintain it at the site, readily available for review. Failure to comply with an applicable state-required SWPPP is a violation of this Ordinance.

(h) Facility Monitoring. Dischargers required to conduct monitoring under the State Construction General Stormwater Permit must conduct such monitoring in conformance with requirements specified by the State, retain records of such monitoring on site, and make such records available for inspection by an Authorized Enforcement Official or Authorized Enforcement Staff.

SEC. 67.818. ADDITIONAL PLANNING, DESIGN AND POST-CONSTRUCTION REQUIREMENTS FOR ALL LAND DEVELOPMENT AND REDEVELOPMENT PROJECTS.

(a) Application to Development and Redevelopment Projects. No land owner or development project proponent in the County Urban Area shall receive any County permit or approval listed in section 67.804(g) of this Ordinance for Land Development Activity or significant redevelopment activity unless the project meets or will meet the requirements of this Ordinance. Post-Construction BMP requirements imposed by this section and by the Stormwater Standards Manual shall not apply to those physical aspects of the project that have been completed or substantially completed pursuant to and as required by a valid County permit or approval, at the time a complete application for a subsequent permit or approval is submitted.

(b) Owners and Developers Responsible and Liable. Developers, Development Project Proponents, and Land Owners for land on which Development Activities are performed, are Dischargers for purposes of this Ordinance; provided however that a local government or public authority is not a Discharger as to activities conducted by others in public rights of way.

(c) Post-construction Best Management Practices Required. Land development and redevelopment projects with the potential to add pollutants to storm water or to affect the flow rate or velocity of stormwater runoff after construction is completed, shall be designed to include and shall implement post-construction BMPs to ensure that pollutants and runoff from the development will be reduced to the Maximum Extent Practicable, will not significantly degrade receiving water quality, and will not cause or contribute to an exceedance of receiving water quality objectives.

(d) Natural BMPs. Natural BMPs, such as constructed wetlands, grassed swales, biofilters, wet ponds, and vegetated filter strips, shall be utilized whenever practicable for post-construction BMPs that are proposed by a discharger.

(e) Post-Construction Stormwater Management Plan. All applications to the County for a permit or approval associated with a land development or redevelopment activity must be accompanied by a Post-Construction Stormwater Management Plan on a form or in a format specified by the County. The plan shall specify the manner in which the Discharger/Applicant will implement the post-construction BMPs required by this Ordinance. The plan must address those aspects of the project that, at the time a complete application is submitted, are subject to further environmental review pursuant to section 15162 of the California Environmental Quality Act. Post-Construction BMPs for other aspects of the project need not be addressed in this plan.

(f) Stormwater Management Plan Review Deposit. **[Reserved]**

(g) Additional Minimum Post-Construction BMPs for Land Development Activities. Whether a County permit or approval is required or not, and whether a Post-Construction Stormwater Management Plan is required to be submitted or not, all Dischargers engaged in land development or significant redevelopment activities in the County Urban Area shall implement post-construction BMPs in the following areas if applicable to the project:

(1) BMPs for permanent control of erosion from slopes. These BMPs can include structures to convey runoff safely from the tops of slopes, vegetation or alternative stabilization of all disturbed slopes, the use of natural drainage systems to the Maximum Extent Practicable, flow and velocity controls upstream of sites; and stabilization or permanent channel crossings, unless the crossing is not publicly accessible and is not frequently used.

(2) BMPs to control flows, velocity and erosion. These BMPs can include but are not limited to the use of energy dissipaters, such as riprap, at the outlets of storm drains, culverts, conduits, or lined channels that enter unlined channels to minimize erosion; installation of retention or equalization basins, or other measures. Flow control and downstream erosion protection measures shall prevent any significant increase in downstream erosion as a result of the new development, but shall not prevent flows needed to sustain downstream riparian habitats or wetlands.

(3) Pollution prevention and source control BMPs, to minimize the release of pollutants into Stormwater.

(4) Site design BMPs, such as impervious surface minimization; and appropriate use of buffer areas to protect natural water bodies.

(5) Site planning BMPs, such as siting and clustering of development to conserve natural areas to the extent practicable.

(6) The installation of storm drain tiles or concrete stamping, and appropriate signage to discourage illegal discharges.

(7) BMPs for trash storage and disposal and materials storage areas.

(8) Structural BMPs to treat and/or to infiltrate stormwater where a development project would otherwise cause or contribute to a violation of water quality standards in receiving waters. Off-site structural BMPs may be used for treatment and infiltration necessary to meet water quality standards only if the conveyance of run-off to those facilities prior to treatment will not cause or contribute to an exceedance of water quality standards, or deprive wetlands or riparian habitats of needed flows. Offsite facilities shall not substitute for the use of any on-site source control BMPs required by the Stormwater Standards Manual.

(9) When an Infiltration BMPs is used, related BMPs set out in the Stormwater Standards Manual (including but not limited to siting constraints), to protect present uses of ground water, and future uses of that ground water as currently designated in the applicable RWQCB Basin Plan. (Discharges to infiltration BMPs may also require an RWQCB permit, and additional state requirements may also be applicable to these discharges.)

(10) Other applicable BMPs required by the County Stormwater Standards Manual.

(h) Control to the Maximum Extent Practicable. All Dischargers engaged in Land Development and Significant Redevelopment Activities shall install, implement and maintain post-construction BMPs as needed to prevent or reduce pollutant discharges in stormwater from land disturbance to the Maximum Extent Practicable.

(i) Priority Development Projects. All priority development projects and significant redevelopment projects (including ministerial projects) shall be designed using the methods and including the studies and reviews described in the SUSMP. In addition to the other requirements of this ordinance, and except as provided in subsections (j) (k) and (l) below, all such projects shall be constructed to include structural treatment BMPs as specified in Section G, Part 6 of Appendix A to this Chapter (i.e., the Stormwater Standards Manual).

(j) Waivers based on infeasibility. An authorized enforcement official with responsibility for a discretionary permit or approval sought for a project otherwise subject to subsection (i) of this section, may waive the requirements of that subsection if compliance would be infeasible. A waiver shall only be granted if all available structural treatment BMPs have been considered and rejected as infeasible. If a waiver is granted, the authorized enforcement official may impose alternative, feasible runoff treatment requirements, or may impose other conditions consistent with state law and County ordinances to facilitate the construction of a shared treatment facility in the future.

(k) Localized Equivalent Area Drainage (LEAD) Proposals. With the prior written approval of the Deputy Chief Administrative Officer, Land Use and Environment Group (DCAO LUEG), the proponent of an in-fill or redevelopment project that would otherwise be subject to subsection (i) may instead propose to treat stormwater for an alternative treatment area, as provided in Section VI of the Final Model SUSMP approved by the RWQCB on June 12, 2002. The DCAO LUEG shall determine whether proposed private projects and County projects meets the requirements of this subsection, and shall recommend to the Board of Supervisors whether specific projects should be accepted as one of the three such projects the County is authorized to approve or construct prior to February 20, 2007. Proposed LEAD projects must meet the following criteria:

- The alternative treatment area shall be located within the proximity of the project;
- The alternative treatment area shall discharge to the same receiving water as the project;
- The alternative treatment area shall be equivalent or greater than the project footprint;
- The alternative treatment area shall have an equivalent or greater impervious surface area than the project;
- The alternative treatment area shall have an equivalent or greater pollutant load than the project;
- Site Design and Source Control BMPs shall be required in the project design.

(l) Site Design Stormwater Treatment Credits [Reserved]

SEC. 67.819. MAINTENANCE OF BMPs.

(a) Existing Development. Residential, commercial, industrial, agricultural and municipal dischargers shall maintain the BMPs they rely upon to achieve and maintain compliance with this Ordinance.

(b) New Development. The owners and occupants of lands on which structural post-construction BMPs have been installed to meet the requirements of this Ordinance shall ensure the maintenance of those BMPs, and shall themselves maintain those BMPs if other persons or entities who are also obliged to maintain those BMPs (by contract or covenant, or pursuant to this Ordinance) fail to do so.

(c) Maintenance Obligations Assumed by Contract or Other Agreement. Primary responsibility to maintain a BMP may be transferred through a contract or other agreement. If that contract provides that it will be submitted to the County pursuant to this Ordinance as part of a development permit application, and if that contract is so submitted, the person or entity accepting a maintenance obligation in such a contact or agreement will also be legally obliged to maintain that BMP pursuant to this Ordinance.

(d) Obligation to Maintain BMPs Not Avoided by Contracts or Other Agreements. For purposes of County enforcement, no contract or other agreement imposing an obligation to maintain a BMP can relieve a person or entity of any obligation to maintain a BMP imposed by this Ordinance.

(e) Disclosure of Maintenance Obligations: Any developer who transfers ownership of land on which a BMP is located or will be located, or who otherwise transfers ownership of a BMP or responsibility for the maintenance of a BMP to another person or entity, shall provide clear written notice of the maintenance obligations associated with that BMP to the new or additional responsible party prior to that transfer.

(f) Maintenance Plans for Land Development Projects. The proponents of any land development project or significant redevelopment project that requires a discretionary County permit, shall provide to the County for review and approval prior to issuance of such permit, a plan for maintenance of all post-construction structural BMPs associated with the project. The plan shall specify the persons or entities responsible for maintenance activity, the persons or entities responsible for funding, schedules and procedures for inspection and maintenance of the BMPs, worker training requirements, and any other activities necessary to ensure BMP maintenance. The plan shall provide for servicing of all post-construction structural BMPs at least annually, and for the retention of inspection and maintenance records for at least three (3) years.

(g) Access Easement/Agreement. The proponents of any land development project or significant redevelopment project that requires a discretionary County permit, shall provide to the County for review and approval prior to issuance of such permit an executed, permanent, easement onto the land on which post-construction structural BMPs will be located (and across other lands as necessary for access), to allow inspection and/or maintenance of those BMPs.

(h) Assurance of Maintenance for Land Development Projects. Except as provided in subsection (i) below, the proponents of any land development or significant redevelopment project that requires a discretionary County permit, shall provide to the County prior to issuance of such permit, proof of a mechanism acceptable to the County which will ensure ongoing long-term maintenance of all structural post-construction BMPs associated with the proposed project. The proponents shall be responsible for maintenance, repair and replacement of BMPs unless and until an alternative mechanism for ensuring maintenance is accepted by the County and becomes effective.

(i) Acceptance of Maintenance Responsibilities by a Public Entity. The County or another public entity may accept responsibility for maintenance of any BMP, under such conditions as the County or other public entity determines are appropriate. Where a maintenance obligation is proposed to be accepted by a public entity other than the County, the County shall be involved in the negotiations with that agency and with the resource agencies responsible for issuing permits for the construction and/or maintenance of the BMP, and no such agreement shall be made without the approval of the County. The County must be identified as a third party beneficiary empowered to enforce any such maintenance agreement.

ARTICLE 3. [Reserved]

SEC. 67.820. [Reserved]

SEC. 67.821. [Reserved]

ARTICLE 4. INSPECTION, ENFORCEMENT, VIOLATIONS, AND PENALTIES

SEC. 67.822. INSPECTION/SAMPLING.

(a) Regulatory Inspections. Authorized Enforcement Officials and Authorized Enforcement Staff may inspect facilities, activities and residences subject to this Ordinance at reasonable times and in a reasonable manner to carry out the purposes of this Ordinance. If entry for a regulatory inspection is refused by the facility owner or operator, or by the occupant of a residence, an inspection warrant shall be obtained prior to inspection.

(b) Access Easements. When any new structural BMP is installed on private property as part of a project that requires a County permit, in order to comply with this Ordinance, the property owner shall grant to the County an easement to enter the property at reasonable times and in a reasonable manner to ensure that the BMP is working properly. This includes the right to enter the property without prior notice once per year for routine inspections, to enter as needed for additional inspections when the County has a reasonable basis to believe that the BMP is not working properly, to enter for any needed follow-up inspections, and to enter when necessary for abatement of a nuisance or correction of a violation of this Ordinance.

(c) Scope of Inspections. Inspections may include all actions necessary to determine whether any Illegal Discharges or Illicit Connections exist, whether the BMPs installed and implemented are adequate to comply with this Ordinance, whether those BMPs are being properly maintained, and whether the facility or activity complies with the other requirements of this Ordinance. This may include but may not be limited to sampling, metering, visual inspections, and records review. Where samples are collected the owner or operator may request and receive split samples. Records, reports, analyses, or other information required under this Ordinance may be inspected and copied, and photographs taken to document a condition and/or a violation of this Ordinance.

SEC. 67.823. ENFORCEMENT.

Authorized Enforcement Officials and Authorized Enforcement Staff may enforce this Ordinance and abate public nuisances as follows:

(a) Administrative Authorities.

(1) Administrative Penalties. Administrative penalties may be imposed pursuant to Chapter 1, Division 8 of Title 1 of the County Code of Regulatory Ordinances (Sections 18.101 et seq.). Any later-enacted administrative penalty provision in the County Code shall also be applicable to this Ordinance, unless otherwise provided therein.

(2) Cease and Desist Orders. Written and/or verbal orders may be issued to stop Illegal Discharges and/or remove Illicit Connections.

(3) Notice and Order to Clean, Test, or Abate. Written and/or verbal orders may be issues to perform activities listed in Section 67.807 where conditions warrant.

(4) Public Nuisance Abatement. Violations of this Ordinance are deemed a threat to public health, safety, and welfare; and are identified as a public nuisance. If actions ordered under Sections 67.823(a)(2) and (3) are not performed, the Authorized Enforcement Official may abate any public nuisance pursuant to the Uniform Public Nuisance Abatement Procedure (sections 16.201 and following of the County Code). County costs for pollution detection and abatement, if not paid in full by the Discharger in addition to any other penalties, may be made a lien against the property in accordance with this procedure.

(5) Stop Work Orders. Whenever any work is being done contrary to the provisions of this Ordinance, or other laws implemented through enforcement of this Ordinance, an Authorized Enforcement Official may order the work stopped by notice in writing served on any person engaged in the doing or causing such work to be done, and any such person shall immediately stop such work until authorized by the Authorized Enforcement Official to proceed with the work.

(6) Permit Suspension or Revocation. Violations of this Ordinance my be grounds for permit and/or other County license suspension or revocation. The procedures for suspensions and revocations set out at Chapter 1 of Division 6 of the County Code (sections 16.110 et seq.) shall apply.

(b) Judicial Authorities.

(1) Civil penalties and remedies. County Counsel is hereby authorized to file civil actions in Superior Court to enforce this Ordinance, seeking civil penalties and/or other remedies as provided in this section and in Section 67.825 of this Ordinance. There is no requirement that administrative enforcement procedures be pursued before such actions are filed.

(2) Injunctive Relief. Any violation of this Ordinance may be enforced by a judicial action for injunctive relief.

(3) Arrest or Issue Citations. The assistance of a peace officer may be enlisted to arrest violators as provided in California Penal Code, Ordinance 5, 5c, and 5d, Title 3, Part 2 (or as amended) and/or a citation and notice to

appear as prescribed in Ordinance 5c of Title 3, Part 2 of the Penal Code, including Section 853.6 (or as amended) may be issued. There is no requirement that administrative enforcement authorities be used before such actions are filed. The immunities prescribed in Section 836.5 of the Penal Code are applicable to Authorized Enforcement Officials and Authorized Enforcement Staff acting in the course and scope of their employment pursuant to this Ordinance.

SEC. 67.824. OTHER ACTS AND OMISSIONS THAT ARE VIOLATIONS.

In addition to the violations identified in sections 67.801 through 67.822 of this Ordinance, the following acts and omissions are violations of this Ordinance, whether committed by a Discharger or by another person or entity:

(a) Causing, Permitting, Aiding, or Abetting Non-compliance. Causing, permitting, aiding, or abetting non-compliance with any part of this Ordinance constitutes a violation of this Ordinance.

(b) Concealment, Misrepresentation and False Statements. Any falsification or misrepresentation made to the County concerning compliance with this Ordinance, including any misrepresentation in a voluntary disclosure, any submission of a report that omits required material facts without disclosing such omission, and any withholding of information required to be submitted by or pursuant to this Ordinance in order to delay County enforcement action, is a violation of this Ordinance. Concealing a violation of this Ordinance is a violation of this Ordinance.

(c) Failure to Promptly Correct Non-compliance. Violations of this Ordinance must be corrected with the time period specified by an Authorized Enforcement Official or Authorized Enforcement Staff. Each day (or part thereof) in excess of that period during which action necessary to correct a violation is not initiated and diligently pursued is a separate violation of this Ordinance.

(d) County Permits and SWPPPs. Any failure to conform to an applicable stormwater pollution prevention plan (SWPPP) prepared pursuant to this Ordinance; any failure to comply with stormwater-related provisions of a County-issued grading permit or grading plan prepared to secure such a permit; and any failure to comply with stormwater-related provisions in any other County permit or approval, is also a violation of this Ordinance. For purposes of this Ordinance a permit provision or condition of approval is “stormwater-related” if compliance with the provision or condition would have the effect of preventing or reducing contamination of stormwater or of moderating run-off flows rates or velocities, whether or not the provision or condition was initially imposed to promote those outcomes.

SEC. 67.825. PENALTIES.

(a) Administrative Penalties. Administrative penalties may be imposed pursuant to Code of Regulatory Ordinances, Division 8, title 1, sections 18.101 et seq. Any later-enacted administrative penalty provision in the County Code shall also be applicable to Ordinance, unless otherwise provided therein.

(b) Misdemeanor Penalties. Non-compliance with any part of this Ordinance, other than section 67.808 (Residential Activities), constitutes a misdemeanor and may be enforced and punished as prescribed in the Penal Code and Government Code of the State of California.

(c) Penalties For Infractions. Authorized Enforcement Officials and Authorized Enforcement Staff may charge any violation of this Ordinance as an infraction at their discretion. Infractions may be abated as a nuisance or enforced and punished as prescribed in the Penal Code and Government Code of the State of California.

(d) For Civil Actions. In addition to other penalties and remedies permitted in this Ordinance, a violation of this Ordinance may result in civil actions. Except where a maximum monetary amount is specified, the following may also be awarded without monetary limitations in any civil action:

- Injunctive relief;
- Costs to investigate, inspect, monitor, survey, or litigate;
- Costs to place or remove soils or erosion control materials, costs to correct any violation, and costs to restore environmental damage or to end any other adverse effects of a violation;
- Compensatory damages for losses to the County or any other plaintiff caused by violations; and/or Restitution to third parties for losses caused by violations; and
- Civil Penalties.

As part of a civil action filed by the County to enforce provisions of this Ordinance, a court may assess a maximum civil penalty of $2500 per violation of this Ordinance for each day during which any violation of any provision of this Ordinance is committed, continued, permitted or maintained by such person(s).

In determining the amount of any civil liability to be imposed pursuant to this Ordinance, the superior court shall take into consideration the nature, circumstances, extent, and gravity of the violation or violations, whether any discharge caused the violation is susceptible to cleanup or abatement, and, with respect to the violator, the ability to pay, the effect on ability to continue in business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic savings, if any resulting from the violation, an such other matters as justice may require.

(e) Penalties and Remedies Not Exclusive. Penalties and remedies under this Article may be cumulative and in addition to other administrative, civil or criminal remedies.

APPENDIX "A"

[Reserved]

APPENDIX "B"

Appendix B is that certain map entitled "Appendix B - Urban and Environmentally Sensitive Areas / Municipal Stormwater Permit – NPDES: CAS0108758," dated 04/18/2002, on file with the Clerk of the Board as Document Number 0769212.

This map is also available on the Internet, through the SANGIS Interactive Map Site, at <SANGIS.org>.

APPENDIX "C"

Appendix C is that certain map entitled "Appendix C – Tributary to EPA 303(d) Water Bodies Impaired for Sediment / Municipal Stormwater Permit – NPDES: CAS0108758," dated04/19/2002, on file with the Clerk of the Board as Document Number0769213.

This map is also available on the Internet, through the SANGIS Interactive Map Site, at <SANGIS.org>.

APPENDIX "D"

Appendix D is that certain map entitled "Appendix D - Environmentally Sensitive Areas / Municipal Stormwater Permit – NPDES: CAS0108758," dated 04/18/2002, on file with the Clerk of the Board as Document Number0769214.

This map is also available on the Internet, through the SANGIS Interactive Map Site, at <SANGIS.org>.

(Amended by Ordinance No. 9589 (N.S.), adopted 8/5/03)
(Amended by Ordinance No. 9518 (N.S.) adopted 1/10/03)
(Ordinance No. 9424 (N.S.) adopted 2/1/02)

Ordinance No. 9999 (N.S.)

Exhibit 7

CLEAN COPY

AN ORDINANCE AMENDING COUNTY CODE SECTION 67.802 (Y), RELATING TO WATERSHED PROTECTION

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. The Board of Supervisors finds and determines that current County Code related to watershed protection should be amended to change the date designated as the beginning of rainy season from November 11 to October 1 in accordance with the current National Pollutant Discharge Elimination System Order No. R9-2007-0001 issued by the San Diego Regional Water Quality Control Board in January 2007.

Section 2. Section 67.802 is amended to read as follows:

SEC. 67.802. DEFINITIONS.

For purposes of this Chapter, the following definitions shall apply:

(a) "Advanced treatment" shall have the same meaning as defined in California Regional Water Quality Control Board, San Diego Region Order No. R9-2007-0001, NPDES No. CAS0108758, Attachment C.

(b) "Authorized enforcement official" means the Director of Public Works, the Director of the Department of Planning and Land Use, the Director of Environmental Health, the Agricultural Commissioner, Department of Agriculture, Weights and Measures, or their designees.

(c) "Authorized non-stormwater discharge" means a discharge allowed to enter the stormwater conveyance system or receiving waters in accordance with a permit under the National Pollutant Discharge and Elimination System program.

(d) "Best management practices" (BMPs) shall have the same meaning as defined in California Regional Water Quality Control Board, San Diego Region Order No. R9-2007-0001, NPDES No. CAS0108758, Attachment C. Best management practices may include any type of pollution prevention and pollution control measure that achieves compliance with this chapter.

(e) "Business activity" has the same meaning as those activities or facilities listed in section D.3.b.1 of the California Regional Water Quality Control Board, San Diego Region Order No. R9-2007-0001, NPDES No. CAS0108758; and also means airplane mechanical repair, maintenance, fueling, or cleaning; motor vehicle (or other vehicle) parking lots and storage facilities; motor vehicle and other vehicle body repair or painting; motor vehicle mechanical repair, maintenance, fueling, or cleaning; boat

See page 6 for "Rainy Season" definition.

mechanical repair, maintenance, fueling, or cleaning; botanical or zoological gardens and exhibits; cement mixing or cutting; cemeteries; food facilities, including, but not limited to, restaurants, taverns, markets, booths, mobile vendors, and commissaries; equipment repair, maintenance, fueling, or cleaning; golf courses, parks and other recreational facilities; landscaping; marinas; masonry storage or installation; mobile motor vehicle or other vehicle washing; mobile carpet, drape or furniture cleaning; nurseries and greenhouses; painting and coating; pest control services; pool, spa, and fountain cleaning; portable sanitary toilet servicing; retail or wholesale fueling; animal facilities; building material retail, wholesale, and storage; power washing services; and also means a facility that is involved in manufacturing; oil and gas mining; hazardous waste treatment, storage, or disposal; solid waste disposal (landfills, land application sites, and open dumps); recycling facilities; steam electric- generation; transportation; sewage or wastewater treatment; or is subject to stormwater effluent limitations guidelines, new source performance standards, or toxic Pollutant effluent standards (40 Code of Federal Regulations Subchapter N), as described in the statewide General Industrial Permit (Water Quality Order No. 97-03-DWQ); and also means any commercial, industrial, or institutional use, as described in the County of San Diego Zoning Ordinance, notwithstanding the zone in which the activity or facility is located.

(f) "Detention" means the temporary storage of storm run-off in a manner that controls peak discharge rates and provides some gravity settling of pollutants.

(g) "Detention facility" means a detention basin or alternative structure designed for the purpose of temporary storage of stream flow or surface run-off and gradual release of stored water at controlled rates.

(h) "Development project" means any land disturbance activity, construction or installation of a structure, the creation of impervious surfaces, or land subdivision.

(i) "Discharge", when used as a verb, means to allow pollutants to directly or indirectly enter stormwater, or to allow stormwater or non-stormwater to directly or indirectly enter the stormwater conveyance system or receiving waters, from an activity or operations which one owns or operates. When used as a noun, "discharge" means the pollutants, stormwater or non- stormwater that are discharged.

(j) "Discharger" means any person or entity engaged in activities or operations or owning facilities, which will or may result in pollutants entering stormwater, the stormwater conveyance system, or receiving waters or the owners of real property on which such activities, operations or facilities are located, except that a local government or public authority is not a discharger as to activities conducted by others in public rights of way.

(k) "Environmentally sensitive area" means impaired water bodies, as defined by the federal Clean Water Act, section 303(d) areas designated as Areas of Special Biological Significance or with the RARE beneficial use by the SWRCB in the Water Quality Control Plan for the San Diego Basin (1994 and amendments), areas designated

as preserves for species- protection purposes by the State of California or a local government, and pre-approved mitigation areas identified in agreements between the County and state or federal natural resources agencies.

(l) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, and technological factors as determined in the sole discretion of the County.

(m) "Illicit connection" means a pipe, facility, or other device connected to the stormwater conveyance system or receiving waters, which has not been authorized by the County; or a permitted/authorized pipe, facility, or other device, which conveys unauthorized discharges.

(n) "Impervious surface area" means the ground area covered or sheltered by an impervious surface, measured in plan view. For example, the "impervious surface area" for a pitched roof is equal to the ground area it shelters, rather than the surface area of the roof itself.

(o) "Infiltration BMPs" means any treatment BMP designed primarily to percolate water into the subsurface. These include infiltration trench, infiltration basin, dry wells, permeable pavements without an under-drain, and sub-surface reservoir beds without an under-drain. BMPs that have some incidental infiltration but which are designed primarily to retain water or to treat water, such as bioretention, filter strips, permeable pavements with an under-drain, or vegetated/rock swales are not infiltration BMPs.

(p) "Land disturbance activity" means any activity, whether or not a stormwater management plan or County permit or approval is required, that moves soils or substantially alters the land such as grading, digging, cutting, scraping, stockpiling or excavating of soil; placement of fill materials; paving, pavement removal, exterior construction; substantial removal of vegetation where soils are disturbed including but not limited to removal by clearing or grubbing; clearing or road- cutting associated with geotechnical exploration and assessment, percolation testing, or any other activity that is a condition of a permit application; or any activity which bares soil or rock or involves streambed alterations or the diversion or piping of any watercourse. Land disturbance activity does not include routine maintenance to maintain original line and grade, hydraulic capacity, or the original purpose of the facility, emergency construction activities required to protect public health and safety; or tilling or cultivating land exclusively for the purpose of growing plants or animals, provided that all disturbed material remains on the same site, the tilling or cultivating will not block or divert any natural drainage way, and the land to be tilled or cultivated has been in agricultural production for at least one of the preceding five years.

(q) "Maximum extent practicable" (MEP) shall have the same meaning as defined in California Regional Water Quality Control Board, San Diego Region Order No. R9-2007-0001, NPDES No. CAS0108758, Attachment C.

(r) "Natural drainage" means a drainage consisting of native soils such as a natural swale or topographic depression which gathers or conveys run-off to a permanent or intermittent watercourse or waterbody.

(s) "Non-stormwater" shall have the same meaning as defined in California Regional Water Quality Control Board, San Diego Region Order No. R9-2007-0001, NPDES No. CAS0108758, Attachment C.

(t) "Performance standard" means a requirement under this chapter that specifies a result that must be achieved (e.g., "minimize impervious surface area" or "do not impair receiving water quality") without specifying the means that must be used to achieve that result.

(u) Pollutant: means any agent introduced to stormwater or non-stormwater through human activity that may cause, potentially cause, or contribute to the degradation of water quality such that public health, the environment, or beneficial uses of waters may be affected. The term includes dredged spoil, rock, sand, or silt (excluding sediment, silt, or substances in quantities which would enter stormwater from a natural undeveloped watershed); solid waste, sewage, garbage, or medical waste; wrecked or discarded equipment; radioactive materials; industrial waste; fecal coliform, fecal streptococcus, and enterococcus bacteria and other pathogens that pose a threat to human health; volatile organic carbon, surfactants, oil and grease, petroleum hydrocarbons, total organic carbon, lead, copper, chromium, cadmium, silver, nickel, zinc, cyanides, phenols, and biocides; and any contaminant which can significantly degrade the quality of receiving waters by altering pH, total suspended or settleable solids, biochemical oxygen demand, chemical oxygen demand, nutrients, or temperature.

(v) "Pollution prevention" means the practices and processes that reduce or eliminate the generation of pollutants such as the use of smaller quantities of toxic materials or substitution of less toxic materials; changes to production processes to reduce waste; decreases in waste water flows; recycling of wastes as part of the production process; segregation of wastes, and treatment of wastes on site to decrease volume or toxicity.

(w) Priority development project means:

(1) a new development project that falls within any of the following categories:

(A) Residential subdivisions of 10 or more dwelling units. This category includes single-family homes, multi-family homes, condominiums, and apartments.

(B) Commercial developments greater than one acre. This category is any development on private land that is not for heavy industrial or residential uses where the land area for development is greater than one acre. The category includes: hospitals; laboratories and other medical facilities; educational institutions; recreational facilities; commercial nurseries; multi-apartment buildings; car wash facilities; mini-malls and

other business complexes; shopping malls; hotels; office buildings; public warehouses; automotive dealerships; airfields; and other light industrial facilities.

(C) Heavy industry developments greater than one acre. This category includes: manufacturing plants, food processing plants, metal working facilities, printing plants, and fleet, such as buses or trucks storage areas.

(D) Automotive repair shops. This category is a facility that is described in any one of the following Standard Industrial Classification (SIC) codes: 5013, 5014, 5541, 7532-7534, or 7536-7539.

(E) Restaurants. This category is any food establishment 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 greater than 5,000 square feet. Restaurants where land development is less than 5,000 square feet shall meet all SUSMP requirements except for structural treatment BMP, numeric sizing criteria requirement, and hydromodification requirement.

(F) All hillside development greater than 5,000 square feet. This category is defined as any development which creates 5,000 square feet of impervious surface which is located in an area with known erosive soil conditions and where the development will grade on any natural slope that is 25% or greater.

(G) Environmentally sensitive areas. This category is any development located within or directly adjacent to or discharging directly to an environmentally sensitive area (where discharges from the development or redevelopment will enter receiving waters within the environmentally sensitive area), which either creates 2,500 square feet of impervious surface on a proposed project site or increases the area of imperviousness of a proposed project site to 10% or more of its naturally occurring condition. For purposes of this definition, "directly adjacent" means situated within 200 feet of the environmentally sensitive area and "discharging directly to" means outflow from a drainage conveyance system that is composed entirely of flows from the subject development or redevelopment site, and not commingled with flows from adjacent lands.

(H) Parking lots 5,000 square feet or more or with 15 or more parking spaces and potentially exposed to urban run-off. Parking lot is defined as a land area or facility for the temporary parking or storage of motor vehicles used personally, for business, or for commerce.

(I) Street, roads, highways, and freeways. This category is the construction of any paved surface which is 5,000 square feet or greater used for the transportation of automobiles, trucks, motorcycles, and other vehicles.

(J) Retail gasoline outlets (RGOs). This category is a retail establishment that sells gasoline and is 5,000 square feet or greater in size or encounters 100 average daily trips or more per day.

(2) A redevelopment project that creates, adds or replaces at least 5,000 square feet of impervious surfaces to a developed site described in section 67.802(w)(1) (A) - (E), (H) and (I).

(x) "Public improvement projects" shall have the same meaning as defined in the Labor Code or Public Contract Code.

(y) "Rainy season" means from October 1 through April 30.

(z) "Receiving waters" shall mean Waters of the State as defined in California Regional Water Quality Control Board, San Diego Region Order No. R9-2007-0001, NPDES No. CAS0108758, Attachment C.

(aa) "Redevelopment" means creation, addition, or replacement of impervious surface on an already developed site. Examples include the expansion of building footprints, road widening, the addition or replacement of a structure, and creation or addition of impervious surfaces. Replacement of existing 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, resurfacing and reconfiguring surface parking lots and existing roadways, new sidewalk construction, pedestrian ramps, or bike lane on existing roads; and routine replacement of damaged pavement, such as pothole repair.

(bb) "Residential discharger" means the occupant, real property owner(s), manager, caretaker, or association board officer of a single-family dwelling, a multiple-family dwelling, mobile home park, condominium complex, or board-and-care house, or other housing structure.

(cc) "Source control BMP" shall have the same meaning as defined in California Regional Water Quality Control Board, San Diego Region Order No. R9-2007-0001, NPDES No. CAS0108758, Attachment C.

(dd) "Stormwater conveyance system" means private and public drainage facilities other than sanitary sewers within the unincorporated area of San Diego County by which urban run-off may be conveyed to receiving waters, and includes but is not limited to roads, streets, constructed channels, aqueducts, storm drains, pipes, street gutters, inlets to storm drains or pipes, or catch basins.

(ee) "Stormwater management" means the use of structural (treatment control) or non-structural (source control) BMPs that are designed to reduce urban run-off pollutant loads, discharge volumes, and/or peak discharge flow rates or velocities. When applied

to the County or another municipality, stormwater management also includes planning and programmatic measures.

(ff) "Stormwater management plan" means a plan, submitted on a County form or in a County approved format with an application for a County permit or other County approval, identifying the measures that will be used for stormwater and non-stormwater management during the permitted activity.

(gg) "Stormwater BMP implementation plan" means a document which meets the requirements for a total maximum daily load (TMDL) study, and is submitted and approved by the San Diego Regional Water Quality Control Board.

(hh) "Stormwater pollution prevention plan" (SWPPP) means an approved site-specific plan that (1) identifies and evaluates sources of pollutants associated with activities that may affect the quality of stormwater discharges and authorized non-stormwater discharges from a facility or site, and (2) identifies and implements site-specific BMPs to reduce to the MEP or to prevent pollutants in stormwater or authorized non-stormwater discharges.

(ii) "SUSMP standard urban stormwater mitigation plan for land development projects and public improvement projects" means the SUSMP standard urban stormwater mitigation plan for land development projects and public improvement projects adopted by the County Board of Supervisors on November 13, 2002, as it may thereafter be revised by the Director, Department of Public Works.

(jj) "Treatment control BMP" shall have the same meaning as defined in California Regional Water Quality Control Board, San Diego Region Order No. R9-2007-0001, NPDES No. CAS0108758, Attachment C.

(kk) Tributary to an impaired water body means a facility or activity is tributary to an impaired water body if urban run-off from that facility or activity enters (1) the stormwater conveyance system at a place and in a manner that will carry pollutants for which that water body is impaired in that discharge to the impaired water body; (2) a flowing stream that will carry pollutants for which that water body is impaired in that discharge to the impaired water body; or (3) an ephemeral stream that reaches the impaired water body during storm events and that will carry pollutants for which that water body is impaired from the facility or activity to the impaired water body during such storm events.

(ll) "Water quality standards" shall have the same meaning as defined in California Regional Water Quality Control Board, San Diego Region Order No. R9-2007-0001, NPDES No. CAS0108758, Attachment C.

Section 3. This Ordinance shall take effect and be in force thirty days after its passage.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of San Diego this 5th day of August, 2009.

Co. of San Diego
Municipal Storm Water Program
ACL Complaint No. R9-2009-0089

Exhibit 8

Date	Description of Activity	Staff Last Name	Staff Hours	Hourly Rate	Cost
1-Apr-09	Meeting with County Van Rhyn	Melbourn	1.00	$151.09	$151.09
29-Apr-09	File Review	Melbourn	2.25	$151.09	$339.95
7-May-09	Draft Internal Memorandum	Melbourn	2.50	$151.09	$377.73
18-May-09	File Review	Melbourn	2.75	$151.09	$415.50
19-May-09	Draft Enforcement Document	Melbourn	1.50	$151.09	$226.64
21-May-09	Draft Enforcement Document	Melbourn	1.50	$151.09	$226.64
28-May-09	Draft Enforcement Document	Melbourn	2.00	$151.09	$302.18
1-Jun-09	Draft Enforcement Document	Melbourn	3.25	$151.09	$491.04
2-Jun-09	Draft Enforcement Document	Melbourn	1.75	$151.09	$264.41
2-Jun-09	CIWQS Data Entry	Melbourn	1.50	$151.09	$226.64
3-Jun-09	Draft Enforcement Document	Melbourn	3.25	$151.09	$491.04
4-Jun-09	Draft Enforcement Document	Melbourn	1.75	$151.09	$264.41
17-Jun-09	File Review	Melbourn	1.00	$151.09	$151.09
18-Jun-09	CIWQS Data Entry	Melbourn	0.50	$151.09	$75.55
22-Jun-09	File Review	Melbourn	0.50	$151.09	$75.55
23-Jun-09	CIWQS Data Entry	Melbourn	0.50	$151.09	$75.55
24-Jun-09	CIWQS Data Entry	Melbourn	3.75	$151.09	$566.59
22-Jul-09	Draft Enforcement Document	Melbourn	1.25	$151.09	$188.86
27-Jul-09	Internal Meeting	Boyers	0.75	$188.91	$141.68
		Haas	0.75	$108.14	$81.11
		Melbourn	0.75	$151.09	$113.32
		Drabandt	0.75	$170.91	$128.18
29-Jul-09	Internet Research	Melbourn	4.50	$151.09	$679.91
4-Aug-09	File Review	Melbourn	1.00	$151.09	$151.09
5-Aug-09	Internet Research	Melbourn	1.75	$151.09	$264.41
13-Aug-09	Draft Enforcement Document	Melbourn	0.50	$151.09	$75.55
31-Aug-09	Draft Enforcement Document	Melbourn	3.50	$151.09	$528.82
1-Sep-09	Draft Enforcement Document	Melbourn	2.25	$151.09	$339.95
2-Sep-09	Draft Enforcement Document	Melbourn	0.50	$151.09	$75.55
3-Sep-09	Draft Enforcement Document	Melbourn	2.25	$151.09	$339.95
9-Sep-09	Draft Enforcement Document	Melbourn	4.50	$151.09	$679.91
10-Sep-09	Draft Enforcement Document	Melbourn	1.50	$151.09	$226.64
17-Sep-09	Draft Enforcement Document	Melbourn	2.25	$151.09	$339.95
23-Sep-09	Draft Enforcement Document	Melbourn	4.00	$151.09	$604.36
24-Sep-09	Draft Enforcement Document	Melbourn	1.50	$151.09	$226.64
29-Sep-09	Draft Enforcement Document	Melbourn	6.25	$151.09	$944.31
30-Sep-09	Draft Enforcement Document	Melbourn	4.00	$151.09	$604.36
1-Oct-09	Draft Enforcement Document	Melbourn	2.25	$151.09	$339.95
6-Oct-09	Draft Enforcement Document	Melbourn	1.00	$151.09	$151.09
7-Oct-09	Draft Enforcement Document	Melbourn	1.25	$151.09	$188.86
8-Oct-09	Draft Enforcement Document	Melbourn	2.00	$151.09	$302.18
15-Oct-09	Review Document	Boyers	1.00	$188.91	$188.91
		Drabandt	1.00	$188.91	$188.91
5-Nov-09	Internal Meeting	Boyers	0.50	$188.91	$94.46
		Drabandt	0.50	$170.91	$85.46
		Haas	0.50	$108.14	$54.07
		Melbourn	0.50	$151.09	$75.55
19-Nov-09	Draft Enforcement Document	Melbourn	2.00	$151.09	$302.18
23-Nov-09	Draft Enforcement Document	Melbourn	2.00	$151.09	$302.18
24-Nov-09	Draft Enforcement Document	Melbourn	2.00	$151.09	$302.18
	Review Document	McCann	0.50	$195.66	$97.83
		Hours	**92.75**	**Cost**	**$14,129.89**

Exhibit 9

This document was received on 30 SEP 2008 and was reviewed and cited in the December 23, 2008, Notice of Violation (NOV).

1.0 INTRODUCTION

1.1 Background

This Jurisdictional Urban Runoff Management Program (JURMP) Annual Report is submitted in partial fulfillment of the requirements of Order No. R9-2007-0001. It is presented in the standardized format developed collectively by the Copermittees and is based on the most updated information available prior to its preparation. It contains descriptions of the County's programs implemented for Fiscal Year (FY) 2007-08 and evaluates their effectiveness where available data and information will support such analysis.

1.2 Purpose and Objectives

The County of San Diego (County) has prepared this Jurisdictional Urban Runoff Management Plan (JURMP) Annual Report in compliance with San Diego Regional Water Quality Control Board (RWQCB) Order R9-2007-0001 (Permit). Its purpose is to report the progress of the County's programs and strategies to reduce the discharge of pollutants of concern to the Municipal Separate Stormwater Sewer System (MS4) and receiving waters to the maximum extent practicable (MEP). It specifically describes the implementation of the County's JURMP during Fiscal Year 2007-08 (July 1, 2007 through June 30, 2008). Because this reporting period partially spans two separate Permit cycles, compliance with the requirements of Order No. 2001-01 is also addressed as applicable. Both in format and content, this Annual Report is considerably different than those previously submitted by the County. In reviewing it, several features should be noted:

- It relies heavily on references to applicable JURMP sections; in general, it is useful to have an up-to-date version of the JURMP available during the review.
- It has a very strong emphasis on the tabular presentation of data and text in most sections.
- Where possible, it identifies and explains activities to be implemented in the upcoming fiscal year. This provides a blueprint for ongoing implementation and helps to provide continuity from year to year.
- It identifies and explains targeted measurable outcomes that are applicable to all significant program activities, BMPs, and other relevant JURMP outcomes.

Table 3.6 – Targeted Outcomes and Results for the Private Construction Element

FY 2007-08 Results				FY 2008-09 Targeted Measurable Outcomes
Targeted Measurable Outcomes	Implementation Results	Assessment Results	Explanation	
4. Compliance and Enforcement Activities				
a. Construction Site Inspections and Enforcement				
i. DPLU Building Permit Sites				
Inspect 100% of high priority construction sites biweekly during the wet season (26 of the 29 high priority sites were open during the wet season)	25 high priority sites inspected biweekly during wet season	96.2 % Completion	***Permit Section D.2.d.(1)-(4)*** prescribes minimum inspection frequencies for high, medium, and low priority construction sites during the wet and dry weather seasons. The RWQCB's September 28, 2007 letter (Compliance with Industrial, Commercial, and Construction Inspection Requirements in ***Order No. R9-2007-0001, NPDES No. CAS 0108758***) allows that the new first-year Permit standards be applied to the entire FY 2007-08 period. Rather than complying with the inspection requirements of ***Order No. 2001-01*** through March 23, 2008, and the requirements of ***Order No. R9-2007-001*** from March 24 through the end of the fiscal year, the County has elected to apply the new Permit standards for the entire period.	Inspect 100% of high priority construction sites biweekly during the wet season
Inspect 100% of medium priority construction sites monthly during the wet season (213 of the 310 medium priority sites were open during wet season)	75 of the medium priority sites inspected monthly during wet season	35.2 % Completion		Inspect 100% of medium priority construction sites monthly during the wet season
Inspect 100% of low priority construction sites twice during the wet season (3308 of the 4,309 low priority sites were open during wet season)	2036 low priority sites inspected twice during wet season	61.5 % Completion	An overall success rate of 60.2% was achieved. 138 medium priority sites did not meet the inspection target. Of these, 26 (18.8%) missed the target by one inspection. 1,272 low priority sites did not meet the inspection target. Of these, 540 (42.5%) missed the target by a single inspection.	Inspect 100% of low priority construction sites twice during the wet season

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- It has a very strong emphasis on the tabular presentation of data and text in most sections.
- Where possible, it identifies and explains activities to be implemented in the upcoming fiscal year. This provides a blueprint for ongoing implementation and helps to provide continuity from year to year.
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Exhibit 10

County of San Diego

LAND USE AND ENVIRONMENT GROUP

CHANDRA L. WALLAR
DEPUTY CHIEF ADMINISTRATIVE OFFICER

1600 Pacific Highway, Room 212, San Diego, CA 92101
(619) 531-6256
Fax: (619) 531-5476

January 30, 2009

John Robertus
California Regional Water Quality Control Board
San Diego Region 9
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340

NOTICE OF VIOLATION NO. R9-2008-0164 & REQUIRED TECHNICAL REPORT

Dear Mr. Robertus:

The County of San Diego (County) received Notice of Violation (NOV) No. R9-2008-0164 for violations of California Regional Water Quality Control Board, San Diego (Regional Board) Order No. R9-2007-0001, National Pollutant Discharge Elimination System (NPDES) Permit No. CAS0108758, Waste Discharge Requirements for Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of San Diego, the Incorporated Cities of San Diego County, the San Diego Unified Prot District, and the San Diego County Regional Airport (Order). The County submits this letter and attachments in response to the NOV.

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.

Due to the complexity of the attached technical report I believe it would be helpful for County staff to meet with Regional Board staff to explain and discuss information contained in the technical report. If you have any questions concerning this letter, please

feel free to contact me at (619) 531-5451, or Cid Tesoro, County Watershed Protection Program Manager, at (858) 694-3672.

Respectfully submitted,

Chandra Wallar

CHANDRA L. WALLAR
Deputy Chief Administrative Officer

CLW:CT:cw

cc: Cid Tesoro, Department of Public Works

Enclosure

County of San Diego
Required Technical Report for NOV R9-2008-0164

This Required Technical Report responds to and provides data and information requested in Notice of Violation R9-2008-0164 ("NOV"), issued to the County of San Diego ("County") on December 23, 2008.

INTRODUCTION

The NOV was issued to the County because it has defined "rainy season" in its Watershed Protection Ordinance ("WPO") as the period from November 11 through April 30th. The basis of the violation is the disparity between the defined "wet season" in RWQCB Order R9-2007-0001 ("Order"), which is October 1 through April 30th and the period in the County WPO. All of the alleged violations flow from this disparity in dates.

The disparity in the dates occurred because the County engaged in discussions and the presentation of scientific data to RWQCB staff, at all levels, to support its use of the November 11th start date in its WPO. It was the understanding of County representatives from those discussions that the use of the later date in its WPO and practices would not be the impetus for violations of the Order. The issuance of this NOV certainly places the County on notice that its earlier understandings are no longer a condoned approach to the applicable period of the wet or rainy season in the WPO.

In responding to the NOV, the County requests that RWQCB staff consider the past County understanding of the acceptability of the November 11th date, as evidenced by the RWQCB acceptance of past compliance reports utilizing that rainy season period without comment[1], until staff recently advised the County that it should use the October 1 start date. The County will agree prospectively to apply the wet season definition of October 1 to April 30th as directed, in light of the clarification of the RWQCB position conveyed by issuance of the NOV. However, the County requests that a prospective approach to the clarification be used in assessing any proposed penalties for alleged violations stemming from use of the November 11th start date.

As a result of the County's agreement to take action to fully address RWQCB's concerns and in light of the fact that this problem arose out of a misunderstanding, the County believes that no further enforcement action is necessary. In further support of this position, the County would request that RWQCB take note of the fact that the rainfall totals in the County from October 1 to November 11 in 2007 and 2008 based on sampled gauges were significantly below those occurring during other wet season months. In addition, the WPO requires that adequate and functional BMPs be in place at all times of the year to prevent pollutants from entering an MS4. The alleged violations are, therefore, process-related and did not impact water quality in any way and the objectives of the Order were accordingly met at all times by the County.

1. EXPLANATION OF ALLEGED VIOLATIONS

Violation I. Alleged Failure to Provide Authority to Achieve Full Compliance with the Order

The NOV alleges the County has failed to "update its grading ordinances as necessary to achieve full compliance with this Order, including requirements for the implementation of all designated BMPs

[1] See, for example, Annual Report 2002-2003, Section 7.2.1 ("SSM Section F.3.1.1 has been updated to change the date from October 1 to November 11 that vegetation used for slope stabilization must be established."); and, Annual Report 2003-2004**,** Section 7.2.2 ("SSM Section F.3.1.1 has been updated to change the date from October 1 to November 11 that vegetation used for slope stabilization must be established.").

and other measures" because the County's updated WPO defines the rainy season as November 11 through April 30 rather than the wet season definition of October 1 through April 30 provided in the Order.

As noted in the Introduction, above, the County defined the wet or rainy season as November 11 – April 30 to be consistent with the understanding that the County had reached with RWQCB staff.

The County also notes that the Order requires the County implement, or require the implementation of BMPs on all sites, and the Order requires the County to update its legal authorities as necessary to achieve compliance with all applicable provisions of the Order. The Order does not require that the County adopt a wet season definition of October 1 through April 30 in the WPO. The County does agree to propose to the Board of Supervisors that the WPO definition should be modified to reflect a wet season consistent with the dates set out in the Order.

Furthermore, any existing inconsistencies between the definitions in the WPO and the Order would only constitute violations if they impeded the County's ability to achieve compliance with the Order. Since the County has adequately implemented, or required the implementation of BMPs on all sites during periods addressed by the NOV, there is no evidence to indicate that the County has failed to establish sufficient legal authority for achieving full compliance with the Order.

Violation II. Alleged Failure to Require Construction Site BMPs during the Wet Season

The NOV alleges that the County has failed to "implement, or require the implementation of, the designated minimum BMPs and any additional measures to comply with this Order at each construction site … year-round" because the County requires only Weather Triggered Action Plans (rather than full BMP implementation) during the period of October 1 though November 10.

The County disagrees with this allegation. The Weather Triggered Action Plan ("WTAP") is not required, but is provided as an option by the County for some construction sites and activities between October 1 and November 10 of each year. While the WTAP does provide developers some flexibility in the deployment of BMPs, the County has either implemented, or required the year-round implementation of BMPs on all construction sites within its jurisdiction in accordance with all applicable provisions of Section D.2.c of the Order.

Section D.2.c generally requires that the County implement BMPs year-round, although Section D.2.c.(1)(b)iii is specific to the rainy season for slope stabilization on all inactive slopes during the rainy season and during rain events in the dry season.

While the WPO and Director's Letter of Instruction DLI-LD-1 ("DLI") for private development define the rainy season as November 11 through April 30, the County's Water Pollution Control Program ("WPCP") and Storm Water Pollution Prevention Program ("SWPPP") specifications for Capital Improvement Projects ("CIP") define the rainy season as October 1 through April 30. Therefore, the rainy season for CIP projects was in conformance with the rainy season in the Order through the period of October 1 through November 10 for both 2007 and 2008.

The following discussion applies to private developments during this time period.

The DLI states, "[a]t all times, the Developer must provide protection of the grading site perimeter, environmentally sensitive areas, watercourses and at operational internal inlets to the storm drain system. Protection shall be accomplished through use of filtration devices, silt fencing, straw, coconut fiber or wood fiber-rolls, gravel bag barriers, or gravel inlet filters. Capture of sediment and dust shall also be accomplished through the use of storm-drain inlet protection and construction

road stabilization." Therefore, regardless of the time of year, the developer must prevent soil erosion and must practice sediment controls.

Irrespective of the season, disturbed soil areas are considered active whenever soil-disturbing activities have occurred, continue to occur, or will occur during the ensuing 10 days. Non-active areas are required to be protected within 10 days of cessation of soil disturbing activities or prior to the onset of precipitation, whichever occurs first.

The DLI allows developers to use a WTAP in lieu of some fully deployed BMPs related to active slopes and building pads from May 1 though November 10. A WTAP may not be used in lieu of BMPs required for grading site perimeters, environmentally sensitive areas, watercourses, or operational inlets to storm drain systems. All BMPs for these areas must be installed and functional year-round, regardless of the season. The WTAP must demonstrate the ability to deploy standby BMPs to completely protect the exposed portion of the project site within 48 hours of a National Weather Service (NWS) predicted storm event. If the NWS predicts a 50% chance of ½ inch or more of rain, the BMPs must be deployed within 48 hours and prior to the onset of precipitation. A minimum of 125% of the material needed to install weather triggered BMPs must be stored on site.

Alternatively, if the developer chooses not to use a WTAP during the non-rainy season (May 1 through Nov. 10), he must fully deploy the required BMPs to protect the site. There are four instances in the DLI that provide the developer some flexibility in how BMPs are deployed between October 1 and November 10. These four instances are discussed below. It should be noted, that regardless of whether or not a WTAP is used, the County requires stabilization of all inactive slopes throughout the entire wet weather season and requires stabilization of all active and inactive slopes during rain events.

(1) Physical Stabilization of Slopes
The DLI Standards Section 2.A (page 4) states, "if Physical Stabilization is to be used it must be fully deployed prior to and throughout the rainy season. Between May 1 and October 1, the Developer may elect to have a weather triggered action plan in lieu of full deployment. Between October 1 and November 10, the Developer may elect to have a weather triggered action plan but must still provide slope protection for all finished slopes that have not been planted and for which vegetation will not be established by November 10."

The DLI Standards Section 2.B. (page 4) states, "if Vegetation Stabilization is proposed to stabilize slopes it may be installed between May 1 and September 15 if slope irrigation is in place and operable. Vegetation must be watered and established prior to November 11. The Developer shall implement a contingency physical BMP by November 11 if vegetation establishment does not occur by that date. If landscaping is proposed and/or required, erosion control measures and physical stabilization that will not inhibit growth (i.e. Stabilizing Fiber Matrix hydromulch, geotextiles, mats, etc.) must also be used while landscaping is being established. Established vegetation shall have a subsurface mat of intertwined mature roots with a uniform vegetative cover of 70 percent of the natural vegetative coverage or more on all disturbed areas." Slope irrigation is associated with planted plants rather than seed mixes. If the vegetation has not taken hold by October 1, then physical stabilization is required.

(2) Slope Limitations
The DLI Standards Section 3.C. (page 4) states, "during the rainy season flat areas of less than 3% (like building pads, parking areas, and leach fields) shall have 100% protection using BMPs listed in 2 or 3B above. In addition, tracking and soil stabilizers/binders, temporary seeding, mulch/wood chips, or jute matting may be used.

During the non-rainy season a developer may elect to have a weather triggered action plan in lieu of full deployment, but must adhere to other BMPs including the 10-day non-active area requirement. These requirements will be waived if full sediment control is provided through Standard Lot Perimeter Protection Detail or constructed and maintained desilting basins at project discharge points." The Lot Perimeter Protection Detail or desilting basin is the method used by most project applicants. Unpaved roads are protected using soil stabilizers for wind erosion and sediment control. Regardless of the option chosen, all inactive slopes must be stabilized.

(3) Graded Pads

The DLI Standards Section 4 (page 4) states, "during the rainy season areas of graded pads that must remain unobstructed to allow ongoing construction may be protected by rolled plastic as part of a weather triggered action plan until the structure's roof has been completed. During the non-rainy season a weather triggered action plan may be used and include erosion control measures identified above or use of a desilting basin. If a desilting basin is used, then a weather-triggered action plan is not required for a graded pad." The Lot Perimeter Protection Detail or desilting basin is the method used by most project applicants. Regardless of the option chosen, all inactive pads must be stabilized.

(4) Ongoing and Rough Grade Inspections

The DLI Grading Inspection Section 3.B. (page 11) states "[e]rosion Control BMPs shall be installed as soon as the finished slopes and flat areas are complete, or when slopes and flat areas have not been actively graded for 10 workdays. From May 1st to September 15th vegetation stabilization may be installed. If vegetation stabilization is used, a slope irrigation system shall be in place and operable. If the vegetation is not established by November 11, then additional physical or hydraulic erosion control BMPs are also required. In the event the Developer has elected to employ a weather-triggered BMP action plan during the non-rainy season, 125% of all needed BMP materials shall be stored onsite to allow full deployment and installation within 48 hours or less." The September 15th date allows for vegetation to grow and take root. Because the slope is already landscaped, the vegetation is sufficient to provide protection during October 1 through November 10. Also, vegetation stabilization at rough grading equates to landscaping. As required in DLI 2.b. (page 4), landscaping requires erosion control measures and physical stabilization that will not inhibit growth.

Violation III. Alleged Failure to Inspect Construction Sites during the Wet Season

The NOV alleges that the County has failed to conduct inspections of construction sites during the period of October 1, 2008 through November 10, 2008. Moreover, the NOV states that "[w]hen asked during the December 2, 2008 meeting if the County conducted inspections between October 1, 2008 and November 10, 2008, the County responded that they had not."

As noted in the Introduction above, the County's actions during this period were consistent with the understanding the County had reached with RWQCB staff that the October 1 – November 10 be considered part of the dry season. In addition, during the December 2 meeting, County staff did not respond that construction inspections were not conducted between October 1, 2008 and November 10, 2008. Inspections were conducted during that period. Documentation of inspection results is provided in Attachment 1.

Violation IV. Alleged Failure to Report Confirmation of BMP Implementation

The NOV alleges the County has failed to "report confirmation of BMP implementation between October 1 and November 10 in the Annual Report and during the [December 2, 2008] meeting."

As noted in the Introduction above, the County's actions during this period were consistent with the understanding that the County had reached with RWQCB staff that October 1 – November 10 be considered part of the dry season.

In addition, the County notes that the JURMP Annual Report Table 3.6 reports overall site compliance (% of sites without violations, which the County uses as an indicator of effective BMP implementation) for Department of Planning and Land Use ("DPLU") Building and Department of Public Works ("DPW") Private Development Construction Inspection ("PDCI") sites for the entire reporting period (FY 2007-08). Table 3.10 also provides a verification that required inspection steps were conducted for all private construction programs, including a description of how BMP evaluations are incorporated into the inspection process. While reported inspection results do not differentiate between the wet and dry seasons, the Order does not require that such a distinction be made. This violation appears to be predicated on an assumption the County has excluded the period of October 1 through November 10 in the results it reported, but this is not the case.

Please also note the County did not "report confirmation of BMP implementation" during the December 2 meeting because County staff were not directly asked to do so.

Violation V. Alleged Failure to Report Construction Inspections

The NOV alleges the County has failed to report "[f]or each construction site within each priority category (high, medium, and low), identification of the period of time (weeks) the site was active within the rainy season, the number of inspections conducted during the rainy season, and the number of inspections conducted during the dry season, and the total numbers of inspections conducted for all sites."

As noted in the Introduction above, the County's actions during this period were consistent with the understanding that the County had reached with RWQCB staff that October 1 – November 10 be considered part of the dry season. Therefore, the County did not report wet season results according to the wet season definition of October 1 though April 30, but instead used a start date of November 11 for most results. The County did, however, provide the total number of inspections conducted for all sites, and the County did provide all required reporting parameters for the inspection data that was submitted.

2. PLANNED ACTIONS

The NOV requires the County to describe and document that it is taking the appropriate actions to come into compliance with the Order, including proposed or current changes to the organizational structure, changes in responsibilities of any department, the appointment of any individual or department to ensure compliance within multiple departments, or planned coordination efforts between the multiple departments.

a. Site Inspections

It must be noted that the County's inspection program was still being refined during the 2007 rainy season. While the County strived to meet 100% of inspection responsibilities, the reality is that the program and internal County processes were still transitioning. However, as a way of improving the County's continued compliance with the Order, some process changes can be implemented. Private construction inspections are conducted by DPLU Building Division and DPW PDCI. The planned actions that each group will take to continue to ensure compliance with the Order in future reporting periods are described below.

DPLU oversees the stormwater inspections for permit programs related to single family residents as well as minor grading permits. The stormwater inspections are triggered by the County's business process Kiva software. Within Kiva, each project is assigned a pseudo permit which triggers inspection notification as defined by program parameters. To date, for the reasons discussed in the Introduction above, these triggers were set for the rainy season start date of November 11, as defined in the County's WPO. In response to this NOV, DPLU Building Division will modify the wet season inspection triggers to begin on the date that the Order establishes as the beginning of the wet season.

PDCI initiates stormwater inspection scheduling based on project priority once a permit has been issued for construction. PDCI will modify the date in the DLI to reflect the beginning of the wet season as specified in the Order. PDCI will continue to ensure its required annual stormwater inspections are completed by the required date and will also require pre-inspections during the month prior to the established date each year to ensure development sites are properly prepared for the coming wet season.

b. BMP Implementation

See the explanation provided above for # 1 (Violation II). As described, the County has either implemented or required the implementation of BMPs on all construction sites within its jurisdiction in accordance with the provisions of Section D.2.c. Therefore, no planned actions are required in response to alleged violations related to BMP implementation.

The County does, however, intend to propose to the Board of Supervisors that it modify the WPO and will modify the DLI to include a wet season definition that matches the dates contained in the Order for the wet season.

c. General Program Management

Although it is not directly responsible for implementing the County's construction programs, the Watershed Protection Program ("WPP") plays an important role in coordinating various departments' activities and consolidating data for annual reports and JURMPs. As an additional measure to ensure consistency throughout the County departments in construction-related permit compliance, the WPP will be consolidating the responsibility for public and private construction compliance oversight under Sara Agahi, Program Manager. The WPP Program Manager will have the following specific responsibilities: (1) meet at least quarterly with the responsible manager for each program, (2) provide regular updates to the group on current issues or program modifications, (3) review and approve proposed training programs, and (4) oversee and approve the development and modification of applicable JURMP and JURMP Annual Report sections.

d. Schedule for Watershed Protection Ordinance Modification and Adoption

The County will propose to the Board of Supervisors that it modify the WPO to incorporate a wet season definition that matches the dates set forth in the Order. This change will be adopted prior to the beginning of the 2009 wet season. WPO modifications require two hearings by the County Board of Supervisors, and take effect 30 days after the second hearing. Taking into account the Board's current 2009 meeting schedule, staff plans to take this change to the Board for a first hearing no later than July 22, 2009 and for a second hearing by August 5, 2009.

3. WET SEASON CONSTRUCTION INVENTORIES AND INPECTIONS.

Attachment 1 provides a complete inventory of private and public construction sites within the County's jurisdiction for the periods of October 1, 2007 through April 30, 2008, and October 1, 2008 through November 10, 2008.

4. ESTIMATE OF INSPECTIONS REQUIRED BUT ALLEGEDLY NOT CONDUCTED

The County was requested to provide an estimate of the number of construction sites that were required to be inspected, but were not from October 1, 2007 to November 10, 2007 and from October 1, 2008 to November 10, 2008. As indicated above in the Introduction, the County believes that in accordance with the understanding that had been reached with RWQCB staff that all required inspections were completed.

a. Private Projects

If, as the County understood, the wet season did not commence until November 11 there would have been no specific inspection target and so no inspections would have been missed.

Using October 1 as the beginning of the wet season, Tables 1 and 2 below summarize the number of inspections completed.

Table 1: Estimated Number of Required Inspections Not Conducted for Private Construction Based on Changed Start Date of Wet Season (Oct. 1, 2007 through Nov. 10, 2007)

Dept./ Program	Low Priority	Medium Priority	High Priority
DPLU Building	0 of 2,498	100 of 170	2 of 25
DPW PDCI	0 of 170	11 of 82	4 of 70

Table 2: Estimated Number of Required Inspections Not Conducted for Private Construction Based on Changed Start Date of Wet Season (Oct. 1, 2008 through Nov. 10, 2008)

Dept./ Program	Low Priority	Medium Priority	High Priority
DPLU Building	0 of 952	0 of 43	0 of 17
DPW PDCI	0 of 76	3 of 19	4 of 177

b. Public Projects

All open CIP sites were inspected during the periods of October 1 through November 10, 2007 and October 1 through November 10, 2008. Site inventories and dates of inspection are provided in Attachment 1.

5. DESCRIPTION OF HOW THE COUNTY IMPLEMENTS OR REQUIRES THE IMPLEMENTATION OF ADEQUATE BMPS THROUGH THE PERIOD OF OCTOBER 1, 2007 THROUGH

NOVEMBER 10, 2007 AND OCTOBER 1, 2008 THROUGH NOVEMBER 10, 2008, AND WERE IN COMPLIANCE WITH THE ORDER.

This question is addressed above in item #1 (Violation II).

6. TYPICAL INSPECTION COSTS

Typical inspection costs vary by program and site complexity. Table 3 below summarizes estimated average inspection costs by program and site priority. Each was calculated by estimating the average amount of time required to conduct inspections and multiplying that by the hourly rate of a typical inspector. It should be recognized that considerable variability exists between sites within any given program or priority category.

Table 3: Estimated Average Inspection Costs by Site Priority

Dept./ Program	Low Priority	Medium Priority	High Priority
Private Construction			
DPLU Building	$88	$102	$117
DPW PDCI	$260	$260	$260
Public Construction			
DPW CIP	Not applicable	$330	$330
DGS CIP	$139	$139	$139
DPR CIP	$105	Not applicable	Not applicable

July 2008; subsequently, all required inspections will be completed before the onset of the wet weather period (October 1st). Additional inventories will be kept for Treatment Control BMPs using KIVA™ (see aforementioned SWMP Tracking) during the pre-construction review and construction phases. These tools will allow the County to collect and track the minimum inventory data from the plan submittal stage to the issuance of the Certificate of Occupancy. Changes in Responsible Party information or BMP design/installation shall be duly verified (reviewed and approved) by the designated County staff before allowing the project to pass to the next component.

Exhibit 11

4.4.4.4.2 Treatment Control BMP Prioritization

Private BMPs

Approved Treatment Control BMPs are classified into four categories based on BMP maintenance requirements as detailed in the local SUSMP Section 5.2. Only three of the four categories are created through private projects (1 through 3). Using these categories the County has assigned maintenance and inspection prioritizations. Category 1 BMPs are considered low priority, and are characterized by low maintenance requirements when the drainage impacts only the immediate parcel/project site. Category 2 BMPs are considered medium priority, and are characterized by medium maintenance requirements for which the property owner has primary responsibility. Category 3 BMPs are considered high priority BMPs that require County oversight with ongoing funding and maintenance. These BMPs generally are dedicated to the County special districts.

- Category 1 = Low Priority
- Category 2 = Medium Priority
- Category 3 = High Priority

Municipal (County-owned) BMPs

Category 4 BMPs include the County BMPs encompassing all three priorities of BMPs (low, medium, and high).

4.4.4.4.3 Treatment Control BMP Certifications

Private Treatment Control BMP (Low Priority)

Project sites that have a Category 1, Low Priority, and Treatment Control BMP are considered to have low maintenance requirements and will not include storm drain inserts on the site (storm drain inserts are minimally classified as medium priority). However, if the Treatment Control BMP becomes a nuisance to the public, the County may upgrade the property to a Medium Priority prioritization and require BMP certification in perpetuity.

The Responsible Party will be required to submit annually a Self-Certification Document (SCD) confirming that the Low Priority (Category 1) Treatment Control BMP has been maintained. The

Exhibit 12

Run Name =	Construction Ins	Construction Ins
Present Values as of Noncompliance Date (NCD),	01-Oct-2007	01-Oct-2008
A) On-Time Capital & One-Time Costs	$15,833	$2,136
B) Delay Capital & One-Time Costs	$0	$0
C) Avoided Annually Recurring Costs	$0	$0
D) Initial Economic Benefit (A-B+C)	$15,833	$2,136
E) Final Econ. Ben. at Penalty Payment Date,		
09-Dec-2009	**$17,510**	**$2,261**
For-Profit (not C-Corp.) w/ CA tax rates		
Discount/Compound Rate	4.7%	4.9%
Discount/Compound Rate Calculated By:	BEN	BEN
Compliance Date	12-Mar-2010	12-Mar-2010
Capital Investment:	avoided	avoided
Cost Estimate	$14,334	$1,820
Cost Estimate Date	30-Jan-2009	30-Jan-2009
Cost Index for Inflation	PCI	PCI
Consider Future Replacement (Useful Life)	y (15)	y (15)
One-Time, Nondepreciable Expenditure:		
Cost Estimate	$0	$0
Cost Estimate Date	N/A	N/A
Cost Index for Inflation	N/A	N/A
Tax Deductible?	N/A	N/A
Annually Recurring Costs:		
Cost Estimate	$0	$0
Cost Estimate Date	N/A	N/A
Cost Index for Inflation	N/A	N/A
User-Customized Specific Cost Estimates:	N/A	N/A
On-Time Capital Investment		
Delay Capital Investment		
On-Time Nondepreciable Expenditure		
Delay Nondepreciable Expenditure		

Co. of San Diego
Municipal Storm Water Program
ACL Complaint No. R9-2009-0089

Exhibit 13

2007

Type of Inspection	No. of Inspections Missed	Inspection Cost	Avoided Inspection Cost
DPLU Building Medium Priority	100	$102	$10,200
DPW PDCI Medium Priority	11	$260	$2,860
DPLU Building High Priority	2	$117	$234
DPW PDCI High Priority	4	$260	$1,040
	117		**$14,334**

2008

Type of Inspection	No. of Inspections Missed	Inspection Cost	Avoided Inspection Cost
DPLU Building Medium Priority	0	$102	$0
DPW PDCI Medium Priority	3	$260	$780
DPLU Building High Priority	0	$117	$0
DPW PDCI High Priority	4	$260	$1,040
	7		**$1,820**

DPLU: Dept. of Planning and Land Use
DPW: Dept. of Public Works
PDCI: Private Development Construction Inspection

Chart created with information supplied by the County of San Diego in its January 30, 2009, response to NOV No. R9-2008-0164.

WAIVER FORM
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R9-2009-0089

By signing this waiver, I affirm and acknowledge the following:

I am duly authorized to represent the County of San Diego (hereinafter "County") in connection with Administrative Civil Liability Complaint No. R9-2009-0089 (hereinafter "Complaint"). I am informed that Water Code section 13323, subdivision (b), states that, "a hearing before the regional board shall be conducted within 90 days after the party has been served [with the Complaint]. The person who has been issued a complaint may waive the right to a hearing."

☐ ***(OPTION 1: Check here if the County waives the hearing requirement and will pay the liability.)***

a. I hereby waive any right the County may have to a hearing before the Regional Board.

b. I certify that the County will remit payment for the civil liability imposed in the amount of seventy-seven **thousand eight hundred dollars ($77,800)** by check that references "ACL Complaint No. R9-2009-0089" made payable to the *"State Water Resources Control Board*." Payment must be received by the Regional Board by **January 4, 2010,** or this matter will be placed on the Regional Board's agenda for a hearing as initially proposed in the Complaint.

c. I understand the payment of the above amount constitutes a proposed settlement of the Complaint, and that any settlement will not become final until after the 30-day public notice and comment period. Should the Regional Board receive significant new information or comments from any source (excluding the Regional Board's Prosecution Team) during this comment period, the Regional Board's Assistant Executive Officer may withdraw the complaint, return payment, and issue a new complaint. I understand that this proposed settlement is subject to approval by the Executive Officer of the Regional Board, and that the Regional Board may consider this proposed settlement in a public meeting or hearing. I also understand that approval of the settlement will result in the County having waived the right to contest the allegations in the Complaint and the imposition of civil liability.

d. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the County to further enforcement, including additional civil liability.

☐ ***(OPTION 2: Check here if the County waives the 90-day hearing requirement in order to engage in settlement discussions.)*** I hereby waive any right the County may have to a hearing before the Regional Board within 90 days after service of the complaint, but I reserve the ability to request a hearing in the future. I certify that the County will promptly engage the Regional Board Prosecution Team in settlement discussions to attempt to resolve the outstanding violation(s). By checking this box, the Discharger requests that the Regional Board delay the hearing so that the County and the Prosecution Team can discuss settlement. It remains within the discretion of the Regional Board to agree to delay the hearing. Any proposed settlement is subject to the conditions described above under "Option 1."

☐ ***(OPTION 3: Check here if the County waives the 90-day hearing requirement in order to extend the hearing date and/or hearing deadlines. Attach a separate sheet with the amount of additional time requested and the rationale.)*** I hereby waive any right the County may have to a hearing before the Regional Board within 90 days after service of the complaint. By checking this box, the County requests that the Regional Board delay the hearing and/or hearing deadlines so that the County may have additional time to prepare for the hearing. It remains within the discretion of the Regional Board to approve the extension.

_____
(Print Name and Title)

_____
(Signature)

_____
(Date)

NOTICE OF WAIVER OF PUBLIC HEARING

California Regional Water Quality Control Board, San Diego Region
Issuance of Administrative Civil Liability Order
Against
County of San Diego

On November 30, 2009, the California Regional Water Quality Control Board, San Diego Region (Regional Board) issued Complaint No. R9-2009-0089 to the County of San Diego (County) in the amount of $77,800 for alleged violations of Order No. 2007-0001, *NPDES No. CAS0108758, Waste Discharge Requirements for Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of San Diego, the Incorporated Cities of San Diego County, the San Diego Unified Port District, and the San Diego County Regional Airport Authority*. The County has elected to waive its right to a public hearing in this matter. Waiver of the hearing constitutes admission of the validity of the allegation of violations in the Complaint and acceptance of the assessment of civil liability in the amount of $77,800 as set forth in the Complaint. The Regional Board may consider accepting the County's waiver at its February 10, 2010, meeting.

Written comments regarding the allegations contained in Complaint No. R9-2009-0089, and/or acceptance of the waiver, will be accepted through Monday, January 18, 2009.

The Regional Board's February 10, 2010, meeting will be at the Regional Board office located at 9174 Sky Park Court, San Diego, California. The meeting will begin at 9:00 a.m. Oral comments for this item may be made during the meeting upon receipt of a request to speak slip. For more information regarding this matter please contact Frank Melbourn at (858) 467-2973, or at fmelbourn@waterboards.ca.gov or the Regional Board's web site at www.waterboards.ca.gov/sandiego.

MICHAEL P. McCANN
Assistant Executive Officer

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

PROPOSED HEARING PROCEDURES
FOR
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R9-2009-0089
ISSUED TO
COUNTY OF SAN DIEGO
VIOLATIONS OF ORDER NO. R9-2007-0001

SCHEDULED FOR FEBRUARY 10, 2010

PLEASE READ THIS HEARING PROCEDURE CAREFULLY. FAILURE TO COMPLY WITH THE DEADLINES AND OTHER REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF YOUR DOCUMENTS AND/OR TESTIMONY.

Background

The Assistant Executive Officer of the California Regional Water Quality Control Board, San Diego Region (Regional Board) issued Administrative Civil Liability (ACL) Complaint No. R9-2009-0089 (Complaint) pursuant to Water Code section 13323 against the County of San Diego (County) alleging that it violated Order No. R9-2007-0001. The Complaint proposes that administrative civil liability in the amount of $77,800 be imposed as authorized by Water Code section 13385. Unless the Discharger waives its right to a hearing and pays the proposed liability, a hearing will be held before the Regional Board during its meeting of February 10, 2010, in San Diego.

Purpose of Hearing

The purpose of the hearing is to receive relevant evidence and testimony regarding the proposed ACL Complaint. At the hearing, the Regional Board will consider whether to adopt, modify, or reject the proposed assessment.

The public hearing on February 10, 2010, will commence as announced in our Regional Board meeting agenda. The meeting will be held at the Regional Board Office at 9174 Sky Park Court, Suite 100, in San Diego. An agenda for the meeting will be issued at least ten days before the meeting and will be posted on the Regional Board's web page at: www.waterboards.ca.gov/sandiego.

Hearing Procedures

The hearing will be conducted in accordance with this hearing procedure. This proposed draft version of the hearing procedure has been prepared by the Prosecution Team, and is subject to revision and approval by the Regional Board's Advisory Team. A copy of the procedures governing an adjudicatory hearing before the Regional Board may be found at Title 23 of the California Code of Regulations, section 648 et seq., and is available at http://www.waterboards.ca.gov or upon request. In accordance with section 648, subdivision (d), any procedure not provided by this Hearing Procedure is deemed waived. Except as provided in Title 23 of the California Code of Regulations

(CCR), section 648(b), Chapter 5 of the Administrative Procedures Act (commencing with section 11500 of the Government Code) does not apply to adjudicatory hearings before the Regional Board. This Notice provides additional requirements and deadlines related to the proceeding.

THE PROCEDURES AND DEADLINES HEREIN MAY BE AMENDED BY THE ADVISORY TEAM IN ITS DISCRETION. **ANY OBJECTIONS TO THE HEARING PROCEDURE MUST BE RECEIVED BY CATHERINE HAGAN, SENIOR STAFF COUNSEL, NO LATER THAN DECEMBER 14, 2009, OR THEY WILL BE WAIVED.** FAILURE TO COMPLY WITH THE DEADLINES AND REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF DOCUMENTS AND/OR TESTIMONY.

Hearing Participation

Participants in this proceeding are designated as either "parties" or "interested persons." "Designated parties" to the hearing may present evidence and cross-examine witnesses and are subject to cross-examination. "Interested persons" may present non-evidentiary policy statements, but may not cross-examine witnesses and are not subject to cross-examination. Interested persons generally may not present evidence (e.g., photographs, eye-witness testimony, monitoring data). Both designated parties and interested persons may be asked to respond to clarifying questions from the Regional Board, staff or others, at the discretion of the Regional Board.

The following participants are hereby designated as parties in this proceeding:

1. Regional Board Prosecution Staff

2. County of San Diego Staff

Requesting Designated Party Status

Persons who wish to participate in the hearing as a "designated party," and not already listed above, shall request "designated party" status by submitting a request in writing (with copies to the existing "designated parties") no later than 5 p.m. on **December 14, 2009**, to Catherine Hagan, Senior Staff Counsel, at the address set forth above. The request shall include an explanation of the basis for status as a "designated party" (e.g., how the issues to be addressed in the hearing and the potential actions by the Regional Board affect the person), the information required of "designated parties" as provided below, and a statement explaining why the party or parties designated above do not adequately represent the person's interest. Any opposition to the request must be submitted by 5 p.m. on **December 21, 2009.** The parties will be notified by 5 p.m. on **December 31, 2009,** as to whether the request has been granted or denied.

Contacts:

Advisory Staff:

Catherine Hagan (George), Esq.
Senior Staff Counsel
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Separation of Functions

To help ensure the fairness and impartiality of this proceeding, the functions of those who will act in a prosecutorial role by presenting evidence for consideration by the Regional Board (Prosecution Staff) have been separated from those who will provide advice to the Regional Board (Advisory Staff). Members of the Advisory Staff are: Catherine Hagan, Senior Staff Counsel, and David Gibson, Executive Officer. Members of the Prosecution Staff are: David Boyers, Staff Counsel, Laura Drabandt, Staff Counsel, Jeremy Haas, Senior Environmental Scientist, Michael McCann, Assistant Executive Officer, and Frank Melbourn, Water Resource Control Engineer.

Ex Parte Communications

The designated parties and interested persons are forbidden from engaging in *ex parte* communications regarding this matter with members of the Advisory Staff or members of the Regional Board. An *ex parte* contact is any written or verbal communication pertaining to the investigation, preparation, or prosecution of the ACL Complaint between a member of a designated party or interested party on the one hand, and a Regional Board member or an Advisory Staff member on the other hand, unless the communication is copied to all other designated and interested parties (if written) or made at a proceeding open to all other parties and interested persons (if verbal). Communications regarding non-controversial procedural matters are not *ex parte* contacts and are not restricted. Communications among the designated and interested parties themselves are not ex parte contacts.

Hearing Time Limits

To ensure that all participants have an opportunity to participate in the hearing, the following time limits shall apply: each designated party shall have a combined twenty (20) minutes to present evidence, cross-examine witnesses (if warranted), and provide a closing statement; and each interested person shall have three (3) minutes to present a non-evidentiary policy statement. Participants with similar interests or comments are requested to make joint presentations, and participants are requested to avoid

redundant comments. Participants who would like additional time must submit their request to the Advisory Team so that it is received no later than ten days after all of the evidence has been received (**January 28, 2010**). Additional time may be provided at the discretion of the Advisory Team (prior to the hearing) or the Regional Board Chair (at the hearing) upon a showing that additional time is necessary.

Submission of Evidence and Policy Statements
The following information must be submitted in advance of the hearing:

1. All evidence (other than witness testimony to be presented orally at the hearing) that the Designated Party would like the Regional Board to consider. Evidence and exhibits already in the public files of the Regional Board may be submitted by reference as long as the exhibits and their location are clearly identified in accordance with Title 23, CCR, section 648.3.
2. All legal and technical arguments or analysis.
3. The name of each witness, if any, whom the designated party intends to call at the hearing, the subject of each witness' proposed testimony, and the estimated time required by each witness to present direct testimony.
4. The qualifications of each expert witness, if any.
5. (County only) If the County intends to argue an inability to pay the civil liability proposed in the Complaint (or an increased or decreased amount as may be imposed by the Regional Board), the County should submit supporting evidence as set forth in the "ACL Fact Sheet" under "Factors that must be considered by the Board."
6. (County only) If the County would like to propose a Supplemental Environmental Project (SEP) or Compliance Project (CP) in lieu of paying some or all of the civil liability in accordance with the State Board's Water Quality Enforcement Policy, the County shall submit a detailed SEP or CP proposal including a specific implementation timetable.

The Prosecution Team shall submit two (2) hard copies of the information to Catherine Hagan, Senior Staff Counsel, so that it is received no later than 5 p.m. on **December 31, 2009.**

The remaining designated parties shall submit twenty (20) hard copies and one (1) electronic copy of the information to Catherine Hagan, Senior Staff Counsel, so that they are received no later than 5 p.m. on **January 18, 2010**.

In addition to the foregoing, each designated party shall send one (1) copy of the above information to each of the other designated parties by 5 p.m. on the deadline specified above.

Interested persons who would like to submit written non-evidentiary policy statements are encouraged to submit them to Catherine Hagan, Senior Staff Counsel, as early as possible, but they must be received by **January 27, 2010**, prior to the hearing.

Interested persons do not need to submit written comments in order to speak at the hearing.

In accordance with Title 23, California Code of Regulations, section 648.4, the Regional Board endeavors to avoid surprise testimony or evidence. Absent a showing of good cause and lack of prejudice to the parties, the Regional Board may exclude evidence and testimony that is not submitted in accordance with this hearing procedure. Excluded evidence and testimony will not be considered by the Regional Board and will not be included in the administrative record for this proceeding. PowerPoint and other visual presentations may be used at the hearing, but their content may not exceed the scope of other submitted written material. A copy of such material intended to be presented at the hearing must be submitted to the Advisory Team at or before the hearing[1] for inclusion in the administrative record. Additionally, any witness who has submitted written testimony for the hearing shall appear at the hearing and affirm that the written testimony is true and correct, and shall be available for cross-examination.

Request for Pre-Hearing Conference

A designated party may request that a pre-hearing conference be held before the hearing in accordance with Water Code section 13228.15. A pre-hearing conference may address any of the matters described in subdivision (b) of Government Code section 11511.5. Requests must contain a description of the issues proposed to be discussed during that conference, and must be submitted to the Advisory Team, with a copy to all other designated parties, no later than 5 p.m. on **January 18, 2010**.

Evidentiary Objections

Any designated party objecting to written evidence or exhibits submitted by another designated party must submit a written objection so that it is received by 5 p.m. on **January 28, 2010,** to the Advisory Team with a copy to all other designated parties. The Advisory Team will notify the parties about further action to be taken on such objections and when that action will be taken.

Evidentiary Documents and File

The Complaint and related evidentiary documents are on file and may be inspected or copied at the Regional Board office at 9174 Sky Park Court, Suite 100, San Diego, CA 92123. This file shall be considered part of the official administrative record for this hearing. Other submittals received for this proceeding will be added to this file and will become a part of the administrative record absent a contrary ruling by the Regional Board Chair. Many of these documents are also posted on-line at www.waterboards.ca.gov/sandiego. Although the web page is updated regularly, to assure access to the latest information, you may contact Catherine Hagan, Senior Staff Counsel.

[1] Each Regional Board may choose to require earlier submission of all visual aids by all parties. OE prefers early submission of visual aids, so that they have time to confirm that the aids do not go beyond the scope of previously-submitted evidence.

Questions
Questions concerning this proceeding may be addressed to Catherine Hagan, Senior Staff Counsel.

IMPORTANT DEADLINES

November 30, 2009: Prosecution Team issues ACL Complaint to County and Advisory Team, sends proposed Hearing Procedure to Discharger and Advisory Team, and publishes Public Notice

December 14, 2009: Objections due on proposed Hearing Procedures. Deadline for submission of request for designated party status

December 18, 2009: Advisory Team issues Hearing Procedure

December 21, 2009: Deadline for opposition to request for designated party status.

December 31, 2009: Prosecution Team's deadline for submission of all information required under "Evidence and Policy Statements," above. Advisory Team issues decision on requests for designated party status, if any.

January 4, 2010: County's deadline for waiving right to hearing.

January 18, 2010: Remaining Designated Parties' Deadline for submission of all information required under "Evidence and Policy Statements," above. All Designated Parties' deadline for submission of request for pre-hearing conference.

January 27, 2010: Deadline for submission of written non-evidentiary policy statements by interested persons.

January 28, 2010: All Designated Parties' deadline for submission of rebuttal evidence (if any) and evidentiary objections. Deadline for submittal of request for additional hearing time.

February 10, 2010: Hearing

PROPOSED

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DAVID W. GIBSON
Executive Officer

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Date