RECEIVED
June 30, 2014
Commission on State Mandates

BURHENN & GEST LLP
624 SOUTH GRAND AVENUE
SUITE 2200
LOS ANGELES, CALIFORNIA 90017-3321
(213) 688-7715
FACSIMILE (213) 624-1376

WRITER'S DIRECT NUMBER
(213) 629-8787

WRITER'S E-MAIL ADDRESS
HGEST@burhenngest.com

June 30, 2014

Via Dropbox

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

Re: Joint Test Claim of Los Angeles County Local Agencies Concerning California Regional Water Quality Control Board, Los Angeles Region, Order No. R4-2012-0175

To the Honorable Commission:

This firm represents the Cities of Agoura Hills, Bellflower, Beverly Hills, Carson, Cerritos, Commerce, Covina, Downey, Huntington Park, Lakewood, Manhattan Beach, Norwalk, Pico Rivera, Rancho Palos Verdes, Redondo Beach, San Marino, Santa Clarita, Santa Fe Springs, Signal Hill, South El Monte, Vernon, Westlake Village and Whittier (collectively, the "Claimants") with respect to the enclosed Joint Test Claim concerning California Regional Water Quality Control Board, Los Angeles Region, Order No. R4-2012-0175 ("Order"). Claimants are permittees under the Order and have filed a Joint Test Claim because the state mandates that are the subject of this Test Claim apply nearly identically to all Claimants.

Enclosed are Claimants' Test Claim Forms (Sections 1-4), a Narrative Statement (Section 5), supporting Declarations (Section 6) and Documentation (Section 7), which includes the Order, the previous 2001 order that it superseded, and other relevant documents.

Thank you for your consideration of this matter. As noted in the Test Claim Forms, communications regarding this Test Claim should be directed to my attention.

Very truly yours,

Howard Gest

1. TEST CLAIM TITLE

Joint Test Claims of Los Angeles County Local Agencies Concerning Los Angeles

2. CLAIMANT INFORMATION

City of Agoura Hills
Name of Local Agency or School District

Gregory Ramirez
Claimant Contact

City Manager
Title

30001 Ladyface Court
Street Address

Agoura Hills, CA 91301
City, State, Zip

Telephone Number

Fax Number

E-Mail Address

3. CLAIMANT REPRESENTATIVE INFORMATION

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

Howard Gest
Claimant Representative Name

Title

Burhenn & Gest LLP
Organization

624 South Grand Avenue, Suite 2200
Street Address

Los Angeles, CA 90402
City, State, Zip

213.629.8787
Telephone Number

213.624.1376
Fax Number

hgest@burhenngest.com
E-Mail Address

For CSM Use Only
Filing Date:

RECEIVED
June 30, 2014
Commission on State Mandates

Test Claim #: 13-TC-01

4. TEST CLAIM STATUTES OR EXECUTIVE ORDERS CITED

Please identify all code sections (include statutes, chapters, and bill numbers) (e.g., Penal Code Section 2045, Statutes 2004, Chapter 54 [AB 290]), regulations (include register number and effective date), and executive orders (include effective date) that impose the alleged mandate .

Los Angeles RWQCB Order No. R4-2012-0175 (NPDES No. CAS 004001)

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

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

5. Written Narrative: pages _____ to _____.
6. Declarations: pages _____ to _____.
7. Documentation: pages _____ to _____.

8. CLAIM CERTIFICATION

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

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

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

City Manager
Print or Type Title

Signature of Authorized Local Agency or School District Official

June 27, 2014
Date

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

1. TEST CLAIM TITLE

Joint Test Claims of Los Angeles County Local Agencies Concerning Los Angeles [redacted]

2. CLAIMANT INFORMATION

City of Bellflower
Name of Local Agency or School District

Jeffrey L. Stewart
Claimant Contact

City Manager
Title

16600 Civic Center Drive
Street Address

Bellflower, CA 90706
City, State, Zip

(562) 804-1424, ext. 2207
Telephone Number

(562) 925-8660
Fax Number

jstewart@bellflower.org
E-Mail Address

3. CLAIMANT REPRESENTATIVE INFORMATION

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

Howard Gest
Claimant Representative Name

Title

Burhenn & Gest LLP
Organization

624 South Grand Avenue, Suite 2200
Street Address

Los Angeles, CA 90402
City, State, Zip

213.629.8787
Telephone Number

213.624.1376
Fax Number

hgest@burhenngest.com
E-Mail Address

For CSM Use Only
Filing Date:

RECEIVED
June 30, 2014
Commission on State Mandates

Test Claim #:

4. TEST CLAIM STATUTES OR EXECUTIVE ORDERS CITED

Please identify all code sections (include statutes, chapters, and bill numbers) (e.g., Penal Code Section 2045, Statutes 2004, Chapter 54 [AB 290]), regulations (include register number and effective date), and executive orders (include effective date) that impose the alleged mandate .

Los Angeles RWQCB Order No. R4-2012-0175 (NPDES No. CAS 004001)

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

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

5. Written Narrative: pages _____ to _____.
6. Declarations: pages _____ to _____.
7. Documentation: pages _____ to _____.

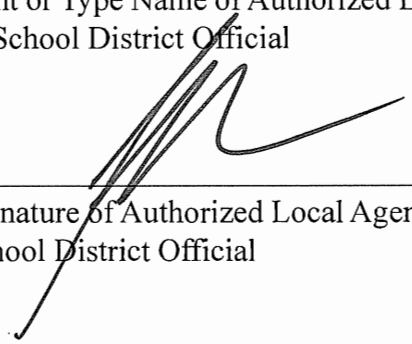
8. CLAIM CERTIFICATION

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

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

Jeffrey L. Stewart
Print or Type Name of Authorized Local Agency or School District Official

City Manager
Print or Type Title



Signature of Authorized Local Agency or School District Official

June 25, 2014
Date

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

1. TEST CLAIM TITLE

Joint Test Claims of Los Angeles County Local Agencies Concerning Los Angeles

2. CLAIMANT INFORMATION

City of Beverly Hills
Name of Local Agency or School District

Jeff Kolin
Claimant Contact

City Manager
Title

455 North Rexford Drive
Street Address

Beverly Hills, CA 90210
City, State, Zip

310-285-1012
Telephone Number

310-274-3267
Fax Number

jkolin@beverlyhills.org
E-Mail Address

3. CLAIMANT REPRESENTATIVE INFORMATION

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

Howard Gest
Claimant Representative Name

Title

Burhenn & Gest LLP
Organization

624 South Grand Avenue, Suite 2200
Street Address

Los Angeles, CA 90402
City, State, Zip

213.629.8787
Telephone Number

213.624.1376
Fax Number

hgest@burhenngest.com
E-Mail Address

For CSM Use Only

Filing Date

RECEIVED
June 30, 2014
Commission on State Mandates

Test Claim #

4. TEST CLAIM STATUTES OR EXECUTIVE ORDERS CITED

Please identify all code sections (include statutes, chapters, and bill numbers) (e.g., Penal Code Section 2045, Statutes 2004, Chapter 54 [AB 290]), regulations (include register number and effective date), and executive orders (include effective date) that impose the alleged mandate .

Los Angeles RWQCB Order No. R4-2012-0175 (NPDES No. CAS 004001)

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

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

5. Written Narrative: pages _____ to _____.
6. Declarations: pages _____ to _____.
7. Documentation: pages _____ to _____.

8. CLAIM CERTIFICATION

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

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

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

City Manager
Print or Type Title

Signature of Authorized Local Agency or School District Official

June 24, 2014
Date

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

1. TEST CLAIM TITLE

Joint Test Claims of Los Angeles County Local Agencies Concerning Los Angeles

2. CLAIMANT INFORMATION

City of Carson
Name of Local Agency or School District

Julio Gonzalez
Claimant Contact

Acting Water Program Manager
Title

701 E. Carson Street
Street Address

Carson, CA 90745
City, State, Zip

310.952.1700 Ext. 1822
Telephone Number

310.835.5749
Fax Number

jgonzale@carson.ca.us
E-Mail Address

3. CLAIMANT REPRESENTATIVE INFORMATION

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

Howard Gest
Claimant Representative Name

Title

Burhenn & Gest LLP
Organization

624 South Grand Avenue, Suite 2200
Street Address

Los Angeles, CA 90402
City, State, Zip

213.629.8787
Telephone Number

213.624.1376
Fax Number

hgest@burhenngest.com
E-Mail Address

For CSM Use Only

Filing Date:

RECEIVED
June 30, 2014
Commission on State Mandates

Test Claim #:

4. TEST CLAIM STATUTES OR EXECUTIVE ORDERS CITED

Please identify all code sections (include statutes, chapters, and bill numbers) (e.g., Penal Code Section 2045, Statutes 2004, Chapter 54 [AB 290]), regulations (include register number and effective date), and executive orders (include effective date) that impose the alleged mandate .

Los Angeles RWQCB Order No. R4-2012-0175 (NPDES No. CAS 004001)

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

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

5. Written Narrative: pages _____ to _____.
6. Declarations: pages _____ to _____.
7. Documentation: pages _____ to _____.

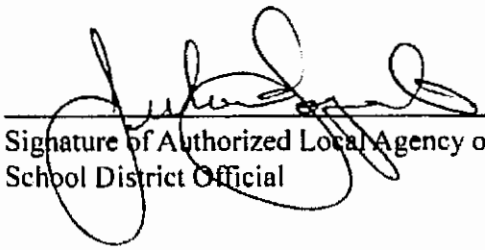
8. CLAIM CERTIFICATION

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

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

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

Acting Water Program Manager
Print or Type Title


Signature of Authorized Local Agency or School District Official

June 25, 2014
Date

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

1. TEST CLAIM TITLE

Joint Test Claims of Los Angeles County Local Agencies Concerning Los Angeles

For CSM Use Only
Filing Date:
RECEIVED June 30, 2014 **Commission on State Mandates**
Test Claim #:

2. CLAIMANT INFORMATION

City of Cerritos
Name of Local Agency or School District

Art Galluccci
Claimant Contact

City Manager
Title

18125 Bloomfield Avenue
Street Address

Cerritos, CA 90703
City, State, Zip

562-916-1310
Telephone Number

562-468-1095
Fax Number

agallucci@cerritos.us
E-Mail Address

3. CLAIMANT REPRESENTATIVE INFORMATION

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

Howard Gest
Claimant Representative Name

Title

Burhenn & Gest LLP
Organization

624 South Grand Avenue, Suite 2200
Street Address

Los Angeles, CA 90402
City, State, Zip

213.629.8787
Telephone Number

213.624.1376
Fax Number

hgest@burhenngest.com
E-Mail Address

4. TEST CLAIM STATUTES OR EXECUTIVE ORDERS CITED

Please identify all code sections (include statutes, chapters, and bill numbers) (e.g., Penal Code Section 2045, Statutes 2004, Chapter 54 [AB 290]), regulations (include register number and effective date), and executive orders (include effective date) that impose the alleged mandate .

Los Angeles RWQCB Order No. R4-2012-0175 (NPDES No. CAS 004001)

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

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

5. Written Narrative: pages _____ to _____.
6. Declarations: pages _____ to _____.
7. Documentation: pages _____ to _____.

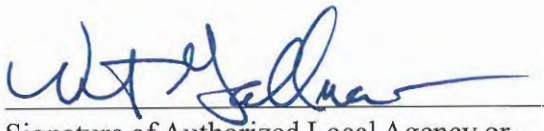
8. CLAIM CERTIFICATION

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

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

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

City Manager
Print or Type Title


Signature of Authorized Local Agency or School District Official

June 27, 2014
Date

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

1. TEST CLAIM TITLE

Joint Test Claims of Los Angeles County Local Agencies Concerning Los Angeles

2. CLAIMANT INFORMATION

City of Commerce
Name of Local Agency or School District

Maryam Babaki
Claimant Contact

Director of Public Works and Development Services
Title

2535 Commerce Way
Street Address

Commerce, CA 90040
City, State, Zip

323.722.4805
Telephone Number

323.888.6537
Fax Number

mbabaki@ci.commerce.ca.us
E-Mail Address

3. CLAIMANT REPRESENTATIVE INFORMATION

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

Howard Gest
Claimant Representative Name

Title

Burhenn & Gest LLP
Organization

624 South Grand Avenue, Suite 2200
Street Address

Los Angeles, CA 90402
City, State, Zip

213.629.8787
Telephone Number

213.624.1376
Fax Number

hgest@burhenngest.com
E-Mail Address

For CSM Use Only

Filing Date:

RECEIVED
June 30, 2014
Commission on State Mandates

Test Claim #:

4. TEST CLAIM STATUTES OR EXECUTIVE ORDERS CITED

Please identify all code sections (include statutes, chapters, and bill numbers) (e.g., Penal Code Section 2045, Statutes 2004, Chapter 54 [AB 290]), regulations (include register number and effective date), and executive orders (include effective date) that impose the alleged mandate .

Los Angeles RWQCB Order No. R4-2012-0175 (NPDES No. CAS 004001)

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

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

5. Written Narrative: pages _____ to _____.
6. Declarations: pages _____ to _____.
7. Documentation: pages _____ to _____.

8. CLAIM CERTIFICATION

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

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

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

Director of Public Works and Development Services
Print or Type Title

Signature of Authorized Local Agency or School District Official

June 25, 2014
Date

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

1. TEST CLAIM TITLE

Joint Test Claims of Los Angeles County Local Agencies Concerning Los Angeles

2. CLAIMANT INFORMATION

City of Covina
Name of Local Agency or School District

Kalieh Honish
Claimant Contact

Interim Director of Public Works
Title

125 E College Street
Street Address

Covina, CA 91723
City, State, Zip

626-384-5484
Telephone Number

626-384-5584
Fax Number

E-Mail Address

3. CLAIMANT REPRESENTATIVE INFORMATION

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

Howard Gest
Claimant Representative Name

Title

Burhenn & Gest LLP
Organization

624 South Grand Avenue, Suite 2200
Street Address

Los Angeles, CA 90402
City, State, Zip

213.629.8787
Telephone Number

213.624.1376
Fax Number

hgest@burhenngest.com
E-Mail Address

For CSM Use Only

Filing Date:

RECEIVED
June 30, 2014
Commission on State Mandates

Test Claim #:

4. TEST CLAIM STATUTES OR EXECUTIVE ORDERS CITED

Please identify all code sections (include statutes, chapters, and bill numbers) (e.g., Penal Code Section 2045, Statutes 2004, Chapter 54 [AB 290]), regulations (include register number and effective date), and executive orders (include effective date) that impose the alleged mandate .

Los Angeles RWQCB Order No. R4-2012-0175 (NPDES No. CAS 004001)

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

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

5. Written Narrative: pages _____ to _____.
6. Declarations: pages _____ to _____.
7. Documentation: pages _____ to _____.

8. CLAIM CERTIFICATION

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

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

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

Interim Director of Public Works
Print or Type Title

Signature of Authorized Local Agency or School District Official

June 26, 2014
Date

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

1. TEST CLAIM TITLE

Joint Test Claims of Los Angeles County Local Agencies Concerning Los Angeles

2. CLAIMANT INFORMATION

City of Downey
Name of Local Agency or School District

Mohammad Mostahkami, P.E.
Claimant Contact

Director of Public Works
Title

11111 Brookshire
Street Address

Downey, CA 90241-7016
City, State, Zip

562.904.7102
Telephone Number

562.904.7296
Fax Number

mmostahkami@downeyca.org
E-Mail Address

3. CLAIMANT REPRESENTATIVE INFORMATION

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

Howard Gest
Claimant Representative Name

Title

Burhenn & Gest LLP
Organization

624 South Grand Avenue, Suite 2200
Street Address

Los Angeles, CA 90402
City, State, Zip

213.629.8787
Telephone Number

213.624.1376
Fax Number

hgest@burhenngest.com
E-Mail Address

For CSM Use Only

Filing Date:

RECEIVED
June 30, 2014
Commission on State Mandates

Test Claim #:

4. TEST CLAIM STATUTES OR EXECUTIVE ORDERS CITED

Please identify all code sections (include statutes, chapters, and bill numbers) (e.g., Penal Code Section 2045, Statutes 2004, Chapter 54 [AB 290]), regulations (include register number and effective date), and executive orders (include effective date) that impose the alleged mandate .

Los Angeles RWQCB Order No. R4-2012-0175 (NPDES No. CAS 004001)

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

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

5. Written Narrative: pages _____ to _____.
6. Declarations: pages _____ to _____.
7. Documentation: pages _____ to _____.

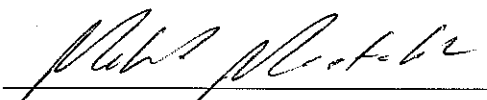
8. CLAIM CERTIFICATION

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

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

Mohammad Mostahkami, P.E.
Print or Type Name of Authorized Local Agency or School District Official

Director of Public Works
Print or Type Title


Signature of Authorized Local Agency or School District Official

June 26, 2014
Date

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

1. TEST CLAIM TITLE

Joint Test Claims of Los Angeles County Local Agencies Concerning Los Angeles [redacted]

2. CLAIMANT INFORMATION

City of Huntington Park
Name of Local Agency or School District

Rene Bobadilla
Claimant Contact

City Manager
Title

6550 Miles Avenue
Street Address

Huntington Park, CA 90255
City, State, Zip

Telephone Number

Fax Number

E-Mail Address

3. CLAIMANT REPRESENTATIVE INFORMATION

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

Howard Gest
Claimant Representative Name

Title

Burhenn & Gest LLP
Organization

624 South Grand Avenue, Suite 2200
Street Address

Los Angeles, CA 90402
City, State, Zip

213.629.8787
Telephone Number

213.624.1376
Fax Number

hgest@burhenngest.com
E-Mail Address

For CSM Use Only

Filing Date:

RECEIVED
June 30, 2014
Commission on State Mandates

Test Claim #:

4. TEST CLAIM STATUTES OR EXECUTIVE ORDERS CITED

Please identify all code sections (include statutes, chapters, and bill numbers) (e.g., Penal Code Section 2045, Statutes 2004, Chapter 54 [AB 290]), regulations (include register number and effective date), and executive orders (include effective date) that impose the alleged mandate .

Los Angeles RWQCB Order No. R4-2012-0175 (NPDES No. CAS 004001)

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

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

5. Written Narrative: pages _____ to _____.
6. Declarations: pages _____ to _____.
7. Documentation: pages _____ to _____.

8. CLAIM CERTIFICATION

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

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

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

City Manager
Print or Type Title

Signature of Authorized Local Agency or School District Official

June 26, 2014
Date

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

1. TEST CLAIM TITLE

Joint Test Claims of Los Angeles County Local Agencies Concerning Los Angeles

2. CLAIMANT INFORMATION

City of Lakewood
Name of Local Agency or School District

Lisa Rapp
Claimant Contact

Public Works Director
Title

5050 Clark Avenue
Street Address

Lakewood, CA 90712
City, State, Zip

Telephone Number

Fax Number

E-Mail Address

3. CLAIMANT REPRESENTATIVE INFORMATION

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

Howard Gest
Claimant Representative Name

Title

Burhenn & Gest LLP
Organization

624 South Grand Avenue, Suite 2200
Street Address

Los Angeles, CA 90402
City, State, Zip

213.629.8787
Telephone Number

213.624.1376
Fax Number

hgest@burhenngest.com
E-Mail Address

For CSM Use Only

Filing Date:

RECEIVED
June 30, 2014
Commission on State Mandates

Test Claim #:

4. TEST CLAIM STATUTES OR EXECUTIVE ORDERS CITED

Please identify all code sections (include statutes, chapters, and bill numbers) (e.g., Penal Code Section 2045, Statutes 2004, Chapter 54 [AB 290]), regulations (include register number and effective date), and executive orders (include effective date) that impose the alleged mandate .

Los Angeles RWQCB Order No. R4-2012-0175 (NPDES No. CAS 004001)

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

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

5. Written Narrative: pages _____ to _____.
6. Declarations: pages _____ to _____.
7. Documentation: pages _____ to _____.

8. CLAIM CERTIFICATION

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

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

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

Public Works Director
Print or Type Title

Lisa Ann Rapp
Signature of Authorized Local Agency or School District Official

June 27, 2014
Date

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

1. TEST CLAIM TITLE

Joint Test Claims of Los Angeles County Local Agencies Concerning Los Angeles

2. CLAIMANT INFORMATION

City of Manhattan Beach
Name of Local Agency or School District

Tony Olmos
Claimant Contact

Director of Public Works
Title

3641 Bell Avenue
Street Address

Manhattan Beach, CA 90266
City, State, Zip

310.802.5302
Telephone Number

310.802.5301
Fax Number

tolmos@citymb.info
E-Mail Address

3. CLAIMANT REPRESENTATIVE INFORMATION

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

Howard Gest
Claimant Representative Name

Title

Burhenn & Gest LLP
Organization

624 South Grand Avenue, Suite 2200
Street Address

Los Angeles, CA 90402
City, State, Zip

213.629.8787
Telephone Number

213.624.1376
Fax Number

hgest@burhenngest.com
E-Mail Address

For CSM Use Only
Filing Date:

RECEIVED
June 30, 2014
Commission on State Mandates

Test Claim #:

4. TEST CLAIM STATUTES OR EXECUTIVE ORDERS CITED

Please identify all code sections (include statutes, chapters, and bill numbers) (e.g., Penal Code Section 2045, Statutes 2004, Chapter 54 [AB 290]), regulations (include register number and effective date), and executive orders (include effective date) that impose the alleged mandate .

Los Angeles RWQCB Order No. R4-2012-0175 (NPDES No. CAS 004001)

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

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

5. Written Narrative: pages _____ to _____.
6. Declarations: pages _____ to _____.
7. Documentation: pages _____ to _____.

8. CLAIM CERTIFICATION

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

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

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

Public Works Director
Print or Type Title

Signature of Authorized Local Agency or School District Official

6/27/14
Date

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

1. TEST CLAIM TITLE

Joint Test Claims of Los Angeles County Local Agencies Concerning Los Angeles

For CSM Use Only
Filing Date:
RECEIVED June 30, 2014 Commission on State Mandates
Test Claim #:

2. CLAIMANT INFORMATION

City of Norwalk
Name of Local Agency or School District

Michael Egan
Claimant Contact

City Manager
Title

12700 Norwalk Blvd.
Street Address

Norwalk, CA 90650
City, State, Zip

(562) 929-5772
Telephone Number

(562) 929-5780
Fax Number

megan@norwalkca.gov
E-Mail Address

3. CLAIMANT REPRESENTATIVE INFORMATION

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

Howard Gest
Claimant Representative Name

Title

Burhenn & Gest LLP
Organization

624 South Grand Avenue, Suite 2200
Street Address

Los Angeles, CA 90402
City, State, Zip

213.629.8787
Telephone Number

213.624.1376
Fax Number

hgest@burhenngest.com
E-Mail Address

4. TEST CLAIM STATUTES OR EXECUTIVE ORDERS CITED

Please identify all code sections (include statutes, chapters, and bill numbers) (e.g., Penal Code Section 2045, Statutes 2004, Chapter 54 [AB 290]), regulations (include register number and effective date), and executive orders (include effective date) that impose the alleged mandate .

Los Angeles RWQCB Order No. R4-2012-0175 (NPDES No. CAS 004001)

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

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

5. Written Narrative: pages _____ to _____.
6. Declarations: pages _____ to _____.
7. Documentation: pages _____ to _____.

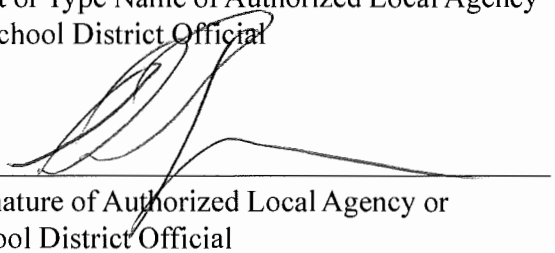
8. CLAIM CERTIFICATION

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

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

Michael J. Egan
Print or Type Name of Authorized Local Agency or School District Official

City Manager
Print or Type Title



Signature of Authorized Local Agency or School District Official

June 24, 2014
Date

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

1. TEST CLAIM TITLE

Joint Test Claims of Los Angeles County Local Agencies Concerning Los Angeles [redacted]

2. CLAIMANT INFORMATION

City of Pico Rivera
Name of Local Agency or School District

Michael Matsumoto
Claimant Contact

Assistant City Manager
Title

6615 Passons Boulevard
Street Address

Pico Rivera, CA 90660
City, State, Zip

562-801-4368
Telephone Number

Fax Number

E-Mail Address

3. CLAIMANT REPRESENTATIVE INFORMATION

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

Howard Gest
Claimant Representative Name

Title

Burhenn & Gest LLP
Organization

624 South Grand Avenue, Suite 2200
Street Address

Los Angeles, CA 90402
City, State, Zip

213.629.8787
Telephone Number

213.624.1376
Fax Number

hgest@burhenngest.com
E-Mail Address

For CSM Use Only
Filing Date:

RECEIVED
June 30, 2014
Commission on State Mandates

Test Claim #:

4. TEST CLAIM STATUTES OR EXECUTIVE ORDERS CITED

Please identify all code sections (include statutes, chapters, and bill numbers) (e.g., Penal Code Section 2045, Statutes 2004, Chapter 54 [AB 290]), regulations (include register number and effective date), and executive orders (include effective date) that impose the alleged mandate .

Los Angeles RWQCB Order No. R4-2012-0175 (NPDES No. CAS 004001)

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

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

5. Written Narrative: pages _____ to _____.
6. Declarations: pages _____ to _____.
7. Documentation: pages _____ to _____.

8. CLAIM CERTIFICATION

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

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

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

Assistant City Manager
Print or Type Title

Signature of Authorized Local Agency or School District Official

June 27, 2014
Date

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

1. TEST CLAIM TITLE

Joint Test Claims of Los Angeles County Local Agencies Concerning Los Angeles

For CSM Use Only
Filing Date:
RECEIVED June 30, 2014 *Commission on State Mandates*
Test Claim #:

2. CLAIMANT INFORMATION

City of Rancho Palos Verdes
Name of Local Agency or School District

Carolynn Petru
Claimant Contact

Acting City Manager
Title

30940 Hawthorne Blvd.
Street Address

Rancho Palos Verdes, CA 90275
City, State, Zip

Telephone Number

Fax Number

E-Mail Address

3. CLAIMANT REPRESENTATIVE INFORMATION

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

Howard Gest
Claimant Representative Name

Title

Burhenn & Gest LLP
Organization

624 South Grand Avenue, Suite 2200
Street Address

Los Angeles, CA 90402
City, State, Zip

213.629.8787
Telephone Number

213.624.1376
Fax Number

hgest@burhenngest.com
E-Mail Address

4. TEST CLAIM STATUTES OR EXECUTIVE ORDERS CITED

Please identify all code sections (include statutes, chapters, and bill numbers) (e.g., Penal Code Section 2045, Statutes 2004, Chapter 54 [AB 290]), regulations (include register number and effective date), and executive orders (include effective date) that impose the alleged mandate .

Los Angeles RWQCB Order No. R4-2012-0175 (NPDES No. CAS 004001)

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

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

5. Written Narrative: pages _____ to _____.
6. Declarations: pages _____ to _____.
7. Documentation: pages _____ to _____.

8. CLAIM CERTIFICATION

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

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

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

Acting City Manager
Print or Type Title

Carolynn Petru
Signature of Authorized Local Agency or School District Official

June 27, 2014
Date

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

1. TEST CLAIM TITLE

Joint Test Claims of Los Angeles County Local Agencies Concerning Los Angeles

2. CLAIMANT INFORMATION

City of Redondo Beach
Name of Local Agency or School District

Joe Hoefgen
Claimant Contact

Interim City Manager
Title

415 Diamond Street
Street Address

Redondo Beach, CA 90277
City, State, Zip

Telephone Number

Fax Number

E-Mail Address

3. CLAIMANT REPRESENTATIVE INFORMATION

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

Howard Gest
Claimant Representative Name

Title

Burhenn & Gest LLP
Organization

624 South Grand Avenue, Suite 2200
Street Address

Los Angeles, CA 90402
City, State, Zip

213.629.8787
Telephone Number

213.624.1376
Fax Number

hgest@burhenngest.com
E-Mail Address

For CSM Use Only
Filing Date:

RECEIVED
June 30, 2014
Commission on State Mandates

Test Claim #:

4. TEST CLAIM STATUTES OR EXECUTIVE ORDERS CITED

Please identify all code sections (include statutes, chapters, and bill numbers) (e.g., Penal Code Section 2045, Statutes 2004, Chapter 54 [AB 290]), regulations (include register number and effective date), and executive orders (include effective date) that impose the alleged mandate .

Los Angeles RWQCB Order No. R4-2012-0175 (NPDES No. CAS 004001)

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

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

5. Written Narrative: pages _____ to _____.
6. Declarations: pages _____ to _____.
7. Documentation: pages _____ to _____.

8. CLAIM CERTIFICATION

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

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

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

Interim City Manager
Print or Type Title

Signature of Authorized Local Agency or School District Official

June 25, 2014
Date

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

1. TEST CLAIM TITLE

Joint Test Claims of Los Angeles County Local Agencies Concerning Los Angeles

For CSM Use Only

Filing Date:

RECEIVED
June 30, 2014
Commission on State Mandates

Test Claim #:

2. CLAIMANT INFORMATION

City of San Marino
Name of Local Agency or School District

John Schaefer
Claimant Contact

City Manager
Title

2200 Huntington Drive
Street Address

San Marino, CA 91108
City, State, Zip

626-300-0700
Telephone Number

626-300-0709
Fax Number

jschaefer@cityofsanmarino.org
E-Mail Address

3. CLAIMANT REPRESENTATIVE INFORMATION

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

Howard Gest
Claimant Representative Name

Title

Burhenn & Gest LLP
Organization

624 South Grand Avenue, Suite 2200
Street Address

Los Angeles, CA 90402
City, State, Zip

213.629.8787
Telephone Number

213.624.1376
Fax Number

hgest@burhenngest.com
E-Mail Address

4. TEST CLAIM STATUTES OR EXECUTIVE ORDERS CITED

Please identify all code sections (include statutes, chapters, and bill numbers) (e.g., Penal Code Section 2045, Statutes 2004, Chapter 54 [AB 290]), regulations (include register number and effective date), and executive orders (include effective date) that impose the alleged mandate .

Los Angeles RWQCB Order No. R4-2012-0175 (NPDES No. CAS 004001)

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

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

5. Written Narrative: pages _____ to _____.
6. Declarations: pages _____ to _____.
7. Documentation: pages _____ to _____.

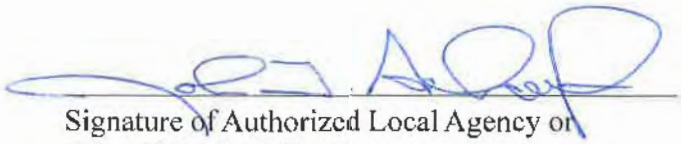
8. CLAIM CERTIFICATION

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

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

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

City Manager
Print or Type Title


Signature of Authorized Local Agency or School District Official

June 27, 2014
Date

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

1. TEST CLAIM TITLE

Joint Test Claims of Los Angeles County Local Agencies Concerning Los Angeles [redacted]

2. CLAIMANT INFORMATION

City of Santa Clarita
Name of Local Agency or School District

Ken Striplin
Claimant Contact

City Manager
Title

23920 Valencia Blvd.
Street Address

Santa Clarita, CA 91355
City, State, Zip

661.259.2489
Telephone Number

Fax Number

hmerenda@santa-clarita.com
E-Mail Address

3. CLAIMANT REPRESENTATIVE INFORMATION

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

Howard Gest
Claimant Representative Name

Title

Burhenn & Gest LLP
Organization

624 South Grand Avenue, Suite 2200
Street Address

Los Angeles, CA 90402
City, State, Zip

213.629.8787
Telephone Number

213.624.1376
Fax Number

hgest@burhenngest.com
E-Mail Address

For CSM Use Only

Filing Date:

RECEIVED
June 30, 2014
Commission on State Mandates

Test Claim #:

4. TEST CLAIM STATUTES OR EXECUTIVE ORDERS CITED

Please identify all code sections (include statutes, chapters, and bill numbers) (e.g., Penal Code Section 2045, Statutes 2004, Chapter 54 [AB 290]), regulations (include register number and effective date), and executive orders (include effective date) that impose the alleged mandate .

Los Angeles RWQCB Order No. R4-2012-0175 (NPDES No. CAS 004001)

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

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

5. Written Narrative: pages _____ to _____.
6. Declarations: pages _____ to _____.
7. Documentation: pages _____ to _____.

8. CLAIM CERTIFICATION

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

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

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

City Manager
Print or Type Title

Ken Striplin
Signature of Authorized Local Agency or School District Official

June 26, 2014
Date

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

1. TEST CLAIM TITLE

Joint Test Claims of Los Angeles County Local Agencies Concerning Los Angeles

For CSM Use Only
Filing Date:
RECEIVED June 30, 2014 Commission on State Mandates
Test Claim #:

2. CLAIMANT INFORMATION

City of Santa Fe Springs
Name of Local Agency or School District

Noe Negrete
Claimant Contact

Director of Public Works
Title

11710 E. Telegraph Rd
Street Address

Santa Fe Springs, CA 90670
City, State, Zip

Telephone Number

Fax Number

E-Mail Address

3. CLAIMANT REPRESENTATIVE INFORMATION

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

Howard Gest
Claimant Representative Name

Title

Burhenn & Gest LLP
Organization

624 South Grand Avenue, Suite 2200
Street Address

Los Angeles, CA 90402
City, State, Zip

213.629.8787
Telephone Number

213.624.1376
Fax Number

hgest@burhenngest.com
E-Mail Address

4. TEST CLAIM STATUTES OR EXECUTIVE ORDERS CITED

Please identify all code sections (include statutes, chapters, and bill numbers) (e.g., Penal Code Section 2045, Statutes 2004, Chapter 54 [AB 290]), regulations (include register number and effective date), and executive orders (include effective date) that impose the alleged mandate .

Los Angeles RWQCB Order No. R4-2012-0175 (NPDES No. CAS 004001)

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

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

5. Written Narrative: pages _____ to _____.
6. Declarations: pages _____ to _____.
7. Documentation: pages _____ to _____.

8. CLAIM CERTIFICATION

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

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

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

Director of Public Works
Print or Type Title

Signature of Authorized Local Agency or School District Official

June 27, 2014
Date

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

1. TEST CLAIM TITLE

Joint Test Claims of Los Angeles County Local Agencies Concerning Los Angeles

For CSM Use Only
Filing Date:
RECEIVED June 30, 2014 **Commission on State Mandates**
Test Claim #:

2. CLAIMANT INFORMATION

City of Signal Hill
Name of Local Agency or School District

Steve Myrter
Claimant Contact

Director of Public Works
Title

2175 Cherry Avenue
Street Address

Signal Hill, CA 90755
City, State, Zip

562.989.7356
Telephone Number

562.989.7391
Fax Number

smyrter@cityofsignalhill.org
E-Mail Address

3. CLAIMANT REPRESENTATIVE INFORMATION

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

Howard Gest
Claimant Representative Name

Title

Burhenn & Gest LLP
Organization

624 South Grand Avenue, Suite 2200
Street Address

Los Angeles, CA 90402
City, State, Zip

213.629.8787
Telephone Number

213.624.1376
Fax Number

hgest@burhenngest.com
E-Mail Address

4. TEST CLAIM STATUTES OR EXECUTIVE ORDERS CITED

Please identify all code sections (include statutes, chapters, and bill numbers) (e.g., Penal Code Section 2045, Statutes 2004, Chapter 54 [AB 290]), regulations (include register number and effective date), and executive orders (include effective date) that impose the alleged mandate .

Los Angeles RWQCB Order No. R4-2012-0175 (NPDES No. CAS 004001)

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

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

5. Written Narrative: pages _____ to _____.
6. Declarations: pages _____ to _____.
7. Documentation: pages _____ to _____.

8. CLAIM CERTIFICATION

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

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

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

Director of Public Works
Print or Type Title

Signature of Authorized Local Agency or School District Official

June 26, 2014
Date

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

1. TEST CLAIM TITLE

Joint Test Claims of Los Angeles County Local Agencies Concerning Los Angeles

2. CLAIMANT INFORMATION

City of South El Monte
Name of Local Agency or School District

Anthony R. Ybarra
Claimant Contact

City Manager
Title

1415 Santa Anita Avenue
Street Address

South El Monte, CA 91733
City, State, Zip

(626) 579-6540
Telephone Number

(626) 579-2107
Fax Number

TYBARRA@SOELMONTE.ORG
E-Mail Address

3. CLAIMANT REPRESENTATIVE INFORMATION

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

Howard Gest
Claimant Representative Name

Title

Burhenn & Gest LLP
Organization

624 South Grand Avenue, Suite 2200
Street Address

Los Angeles, CA 90402
City, State, Zip

213.629.8787
Telephone Number

213.624.1376
Fax Number

hgest@burhenngest.com
E-Mail Address

For CSM Use Only

Filing Date:

RECEIVED
June 30, 2014
Commission on State Mandates

Test Claim #:

4. TEST CLAIM STATUTES OR EXECUTIVE ORDERS CITED

Please identify all code sections (include statutes, chapters, and bill numbers) (e.g., Penal Code Section 2045, Statutes 2004, Chapter 54 [AB 290]), regulations (include register number and effective date), and executive orders (include effective date) that impose the alleged mandate .

Los Angeles RWQCB Order No. R4-2012-0175 (NPDES No. CAS 004001)

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

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

5. Written Narrative: pages _____ to _____.
6. Declarations: pages _____ to _____.
7. Documentation: pages _____ to _____.

8. CLAIM CERTIFICATION

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

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

Anthony R. Ybarra
Print or Type Name of Authorized Local Agency or School District Official

City Manager
Print or Type Title

Anthony R. Ybarra
Signature of Authorized Local Agency or School District Official

June 26, 2014
Date

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

1. TEST CLAIM TITLE

Joint Test Claims of Los Angeles County Local Agencies Concerning Los Angeles

2. CLAIMANT INFORMATION

City of Vernon
Name of Local Agency or School District

Samuel K. Wilson
Claimant Contact

Director of Public Works, Water & Development Services
Title

4305 Santa Fe Avenue
Street Address

Vernon CA 90058
City, State, Zip

323-583-8811 Ext. 245
Telephone Number

323-826-1435
Fax Number

kwilson@ci.vernon.ca.us
E-Mail Address

3. CLAIMANT REPRESENTATIVE INFORMATION

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

Howard Gest
Claimant Representative Name

Title

Burhenn & Gest LLP
Organization

624 South Grand Avenue, Suite 2200
Street Address

Los Angeles, CA 90402
City, State, Zip

213.629.8787
Telephone Number

213.624.1376
Fax Number

hgest@burhenngest.com
E-Mail Address

For CSM Use Only

Filing Date:

RECEIVED
June 30, 2014
Commission on State Mandates

Test Claim #:

4. TEST CLAIM STATUTES OR EXECUTIVE ORDERS CITED

Please identify all code sections (include statutes, chapters, and bill numbers) (e.g., Penal Code Section 2045, Statutes 2004, Chapter 54 [AB 290]), regulations (include register number and effective date), and executive orders (include effective date) that impose the alleged mandate .

Los Angeles RWQCB Order No. R4-2012-0175 (NPDES No. CAS 004001)

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

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

5. Written Narrative: pages _____ to _____.
6. Declarations: pages _____ to _____.
7. Documentation: pages _____ to _____.

8. CLAIM CERTIFICATION

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

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

Samuel K. Wilson
Print or Type Name of Authorized Local Agency or School District Official

Director of Public Works, Water & Development Services
Print or Type Title

Signature of Authorized Local Agency or School District Official

June 26, 2014
Date

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

1. TEST CLAIM TITLE

Joint Test Claims of Los Angeles County Local Agencies Concerning Los Angeles RWQCB Order No. R4-2012-0175 (NPDES No. CAS 004001)

2. CLAIMANT INFORMATION

City of Westlake Village
Name of Local Agency or School District

Ray Taylor
Claimant Contact

City Manager
Title

31200 Oakcrest Drive
Street Address

Westlake Village, CA 91361
City, State, Zip

Telephone Number

Fax Number

E-Mail Address

3. CLAIMANT REPRESENTATIVE INFORMATION

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

Howard Gest
Claimant Representative Name

Title

Burhenn & Gest LLP
Organization

624 South Grand Avenue, Suite 2200
Street Address

Los Angeles, CA 90402
City, State, Zip

213.629.8787
Telephone Number

213.624.1376
Fax Number

hgest@burhenngest.com
E-Mail Address

For CSM Use Only

Filing Date:

RECEIVED
June 30, 2014
Commission on State Mandates

Test Claim #:

4. TEST CLAIM STATUTES OR EXECUTIVE ORDERS CITED

Please identify all code sections (include statutes, chapters, and bill numbers) (e.g., Penal Code Section 2045, Statutes 2004, Chapter 54 [AB 290]), regulations (include register number and effective date), and executive orders (include effective date) that impose the alleged mandate .

Los Angeles RWQCB Order No. R4-2012-0175 (NPDES No. CAS 004001)

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

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

5. Written Narrative: pages _____ to _____.
6. Declarations: pages _____ to _____.
7. Documentation: pages _____ to _____.

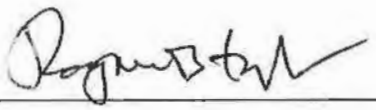
8. CLAIM CERTIFICATION

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

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

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

City Manager
Print or Type Title


Signature of Authorized Local Agency or School District Official

June ___, 2014
Date

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

1. TEST CLAIM TITLE

Joint Test Claims of Los Angeles County Local Agencies Concerning Los Angeles

For CSM Use Only
Filing Date:
RECEIVED June 30, 2014 Commission on State Mandates
Test Claim #:

2. CLAIMANT INFORMATION

City of Whittier
Name of Local Agency or School District

Jeffrey W. Collier
Claimant Contact

City Manager
Title

13230 Penn Street
Street Address

Whittier, CA 90602
City, State, Zip

562.567.9301
Telephone Number

Fax Number

jcollier@cityofwhittier.org
E-Mail Address

3. CLAIMANT REPRESENTATIVE INFORMATION

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

Howard Gest
Claimant Representative Name

Title

Burhenn & Gest LLP
Organization

624 South Grand Avenue, Suite 2200
Street Address

Los Angeles, CA 90402
City, State, Zip

213.629.8787
Telephone Number

213.624.1376
Fax Number

hgest@burhenngest.com
E-Mail Address

4. TEST CLAIM STATUTES OR EXECUTIVE ORDERS CITED

Please identify all code sections (include statutes, chapters, and bill numbers) (e.g., Penal Code Section 2045, Statutes 2004, Chapter 54 [AB 290]), regulations (include register number and effective date), and executive orders (include effective date) that impose the alleged mandate .

Los Angeles RWQCB Order No. R4-2012-0175 (NPDES No. CAS 004001)

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

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

5. Written Narrative: pages _____ to _____.
6. Declarations: pages _____ to _____.
7. Documentation: pages _____ to _____.

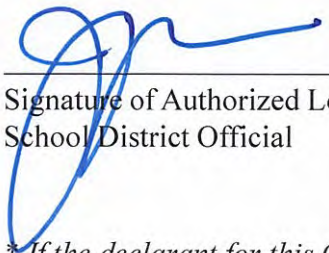
8. CLAIM CERTIFICATION

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

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

Jeffrey W. Collier
Print or Type Name of Authorized Local Agency or School District Official

City Manager
Print or Type Title



Signature of Authorized Local Agency or School District Official

June 25, 2014
Date

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

SECTION FIVE

NARRATIVE STATEMENT

In Support of Joint Test Claim of Los Angeles County Local Agencies Concerning Los Angeles RWQCB Order No. R4-2012-0175 (NPDES No. CAS 004001)

NARRATIVE STATEMENT IN SUPPORT OF JOINT TEST CLAIMS

I. INTRODUCTION

On November 8, 2012, the California Regional Water Quality Control Board, Los Angeles Region ("LARWQCB"), adopted a new storm water permit, Order No. R4-2012-0175 (NPDES No. CAS 004001) ("Permit") regulating discharges from the municipal separate storm sewer systems ("MS4s") operated by a number of municipal entities in portions of Los Angeles County.[1]

The Permit includes numerous new provisions that exceed the requirements of federal law, all of which were not included in the previous MS4 permit issued by the LARWQCB on December 13, 2001, Order No. 01-182 ("2001 Permit").[2] These new requirements represent unfunded State mandates for which the Cities of Agoura Hills, Bellflower, Beverly Hills, Carson, Cerritos, Commerce, Covina, Downey, Huntington Park, Lakewood, Manhattan Beach, Norwalk, Pico Rivera, Rancho Palos Verdes, Redondo Beach, San Marino, Santa Clarita, Santa Fe Springs, Signal Hill, South El Monte, Vernon, Westlake Village and Whittier (collectively, the "Claimants") are entitled to reimbursement under article XIII B section 6 of the California Constitution.

This Section 5 of the Test Claim identifies the activities that are unfunded mandates and sets forth the basis for reimbursement for such activities. Claimants seek a subvention of funds for the following mandates:

A. Requirements to comply with Total Maximum Daily Load ("TMDL") programs set forth in Permit Part VI.E and Attachments L through Q and in the Permit's Monitoring and Reporting Program;

B. Requirements involving the prohibition of non-stormwater discharges into and through the permittees MS4s, contained in Permit Part III.A;

C. Requirements relating to the provision of a means for public reporting of clogged catch basin inlets and illicit discharges, missing catch basin labels and other pollution prevention information, contained in Permit Part VI.D.5;

D. Requirements relating to the inspection of industrial and commercial facilities and to inventory or database critical industrial and commercial sources in Permit Part VI.D.6. While carried over from the 2001 permit, these requirements are the subject of an appeal before the California Supreme Court;

[1] A copy of the Permit and all attachments is included as Exhibit A in Section 7, filed herewith. The permittees regulated under the Permit are the Los Angeles County Flood Control District, the County of Los Angeles and 84 cities in the County. A full list of the permittees can be found on pages 1-8 of the Permit.

[2] A copy of the 2001 Permit is included as Exhibit B in Section 7.

E. Requirements contained in the planning and development program requirements in the Permit (Part VI.D.7), including to track, enforce and inspect new development and re-development post-construction best management practices ("BMPs");

F. Requirements in Permit Part VI.D.8 relating to construction site activities, including to inspect construction sites of one acre or greater covered by the general construction activities stormwater permit, to electronically inventory various land use permits and to update this inventory, to require review and approval of erosion and sediment control plans, and to develop technical standards for the selection, installation and maintenance of construction BMPs, and requirements to develop procedures to review and approve relevant construction plan documents and to train permittee employees with respect to review and inspections;

G. Requirements relating to public agencies in Permit Part VI.D.9, including to maintain an updated inventory of permittee-owned or operated public facilities that are potential sources of stormwater pollution, to develop an inventory of public rights of ways or other areas that can be retrofitted to reduce the discharge of stormwater, to develop and implement an Integrated Pest Management Program, for areas not subject to a trash TMDL, to install trash excluders or equivalent devices on catch basins or take alternative steps such as increased street sweeping, adding trash cans or installing trash nets; and

H. Requirements to, among other things, promote, publicize and facilitate public reporting of illicit discharges, ensure that signage adjacent to open channels includes information regarding dumping prohibitions and public reporting of illicit discharges, develop procedures regarding documentation of the handling of complaint calls, development of a spill response plan and an expansion of training programs, all in Permit Part VI.D.10.

II. THE STATUTORY AND REGULATORY FRAMEWORK

The Permit was issued as both a "waste discharge requirement" under the Porter-Cologne Water Quality Control Act, Water Code § 13000 *et seq.*, and as a National Pollutant Discharge Elimination System ("NPDES") permit under the federal Clean Water Act ("CWA"), 42 U.S.C. § 1342. *See* Permit Part II.H. In 1969, three years before Congress enacted the CWA, the California Legislature enacted the Porter-Cologne Act, which established the State Board and nine regional control boards as the agencies responsible for the coordination and control of water quality in California. Water Code § 13001.[3] Under Porter-Cologne, any person who discharges or proposes to discharge "waste" that could affect the quality of the "waters of the state" is required to obtain a waste discharge requirement permit. Water Code §§ 13260 and 13263.

In 1972 Congress adopted what later became known as the CWA. In so doing, Congress expressly preserved the right of any state to adopt or enforce standards or limitations respecting discharges of pollutants or the control or abatement of pollutants, so long as such provisions were not "less stringent" than federal law. 33 U.S.C. § 1370. *See also* 40 C.F.R. § 123.1(i) ("Nothing in this part precludes a State from: (1) Adopting or enforcing requirements which are

[3] Copies of relevant California statutes are contained in Section 7, Exhibit C.

more stringent or more extensive than those required under this part; (2) Operating a program with a greater scope of coverage than that required under this part.").

Under the CWA, the discharge of a pollutant to a navigable water of the United States is prohibited unless the discharge is in accordance with one of the statutory provisions of the Act. 33 U.S.C. § 1311(a).[4] One of those provisions is the NPDES permit program. 33 U.S.C. § 1342. The CWA provides that states may administer their own NPDES permit programs in lieu of the federal program. 33 U.S.C. § 1342(b); 40 C.F.R. § 123.22. A state's decision to do so is entirely voluntary, and if the state chooses not to administer this program, NPDES permits for that state are issued by USEPA. *See* 33 U.S.C. § 1342(a).

To effectuate California's issuance of NPDES permits, the Legislature in 1972 added Chapter 5.5 to the Porter-Cologne Act, Water Code §§ 13370-13389. *Building Industry Ass'n of San Diego County v. State Water Resources Control Board* (2004) 124 Cal.App.4th 866, 875.[5] In so doing, the Legislature ensured that California law would mirror the CWA's savings clause by authorizing the State Board and regional boards to not only issue permits that complied with the CWA's requirements, but also to include in them "any more stringent effluent standards or limitations necessary to implement water quality control plans, or the protection of beneficial uses, or to prevent nuisance." Water Code § 13377.

In California, NPDES permits are issued by the State Board and the nine regional boards. Water Code § 13377. Such permits can include both federal requirements and any other state provisions that are more stringent than the federal requirements. *Id.* As the California Supreme Court held in *City of Burbank v. State Water Resources Control Board* (2005) 35 Cal. 4th 613, 627-28, the latter requirements are state-imposed and subject to the requirements of state law.

The CWA was amended in 1987 to include within its regulation discharges of stormwater from both industrial and municipal sources. 33 U.S.C. § 1342(p). Permits for discharges from municipal separate storm sewer systems:

(i) may be issued on a system or jurisdiction-wide basis;

(ii) shall include a requirement to effectively prohibit non-stormwater discharges into the storm sewers; and

(iii) shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants.

33 U.S.C. § 1342(p)(3)(B).

The CWA requirements imposed on municipal stormwater dischargers are less stringent than those imposed on industrial dischargers. Industrial dischargers, including industrial

[4] Copies of federal statutes and regulations are contained in Section 7, Exhibit D.
[5] Copies of cited federal and state cases are contained in Section 7, Exhibit E.

stormwater dischargers, must assure that their discharges meet "water quality standards." 33 U.S.C. §§ 1342(a), 1311(b)(1)(C) and 1342(p)(3)(A). The CWA does not impose this requirement on municipal stormwater dischargers. 33 U.S.C. § 1342(p)(3)(B); *Defenders of Wildlife v. Browner* (9th Cir. 1999) 191 F.3d 1159, 1164-65. In *Defenders*, the Ninth Circuit specifically held that MS4 permits were not required to include requirements to meet water quality standards. The court found that EPA or a state may have the *discretion* to include such requirements in a MS4 permit, but such inclusion was solely discretionary. It is not required by the CWA. *Id.* at 1166.

Under the CWA, a state administers "*its own permit program* for discharges into navigable waters," which program is established and administered "*under State law*." 33 U.S.C. § 1342(b) (emphasis added.) *See also* 40 C.F.R. §123.22 ("Any State that seeks to administer a program . . . shall submit a description of the program it proposes to administer in lieu of the Federal program *under State law*. . . .") (emphasis added).

When administering an NPDES program, the state is not acting as an arm of the United States Environmental Protection Agency ("EPA"), but is acting *in lieu* of the federal program. 40 C.F.R. § 123.22; *State of California v. United States Department of the Navy* (9th Cir. 1988) 845 F.2d 222, 225 (CWA legislative history "clearly states that the state permit programs are 'not a delegation of Federal Authority' but instead are state programs which 'function . . . in lieu of the Federal program.'"); *Voices of the Wetlands v. State Water Resources Control Bd.* (2011) 52 Cal.4th 499, 522 ("It is true, as these parties observe, that the Clean Water Act does not directly delegate a state agency the authority to administer the federal clean water program; instead, it allows the EPA director to 'suspend' operation of the federal permit program in individual states in favor of EPA-approved permit systems that operate under those state's own laws in lieu of the federal framework.").

The Permit is a "Phase I" permit issued to MS4s serving large urban populations. In 1990, EPA issued regulations to implement Phase I of the MS4 permit program. 55 Fed. Reg. 47990 (November 16, 1990). The requirements of those regulations, as they apply to the provisions of the Permit relevant to this Test Claim, are discussed in further depth below.

This Commission previously has found in a test claim brought regarding the 2001 Permit and in a test claim brought regarding a 2007 San Diego MS4 permit, that those permits contained requirements that exceeded federal law and constituted unfunded state mandates. *In re Test Claim on: Los Angeles Regional Quality Control Board Order No. 01-192*, Case Nos.: 03-TC-04, 03-TC-19, 03-TC-20, 03-TC-21 ("Los Angeles County Test Claim"); *In re Test Claim on: San Diego Regional Water Quality Control Board Order No. R9-2007-0001*, Case No. 07-TC-09 ("San Diego County Test Claim"). These two decisions are currently the subject of court actions: the California Supreme Court recently accepted review of a California Court of Appeal decision regarding the Los Angeles County Test Claim and review of the San Diego County Test Claim is pending in another California Court of Appeal.

The State Board has issued two state-wide general NPDES stormwater permits covering construction sites (SWRCB Order 2009-0009 DWQ, as amended by Order 2010-0014 DWQ) ("GCASP") and certain industrial facilities (SWRCB Order 97-03 DWQ) ("GIASP"). The

responsibility to enforce these permits has been delegated by the State Board to the regional boards. *See* Order 2009-0009 DWQ, paragraph 8; Order 97-03 DWQ, paragraph 13.[6] In addition, permittees covered by the GCASP and GIASP are required to pay fees to the State Board, fees which are authorized under Water Code § 13260(d)(2)(B)(i)-(iii). As will be discussed below, however, the Permit requires the permittees to inspect sites and facilities and to conduct enforcement activities with respect to these general permits, which represents a transfer of a state obligation to local agencies. The Commission itself has already found, in the Los Angeles County Test Claim, that similar obligations under the 2001 Permit represented state mandates. Los Angeles County Test Claim, Statement of Decision at 40-48.

III. STATE MANDATE LAW

Article XIII B, section 6 of the California Constitution requires that the Legislature provide a subvention of funds to reimburse local agencies any time that the Legislature or a state agency "mandates a new program or higher level of service on any local government." The purpose of section 6 "is to preclude the State from shifting financial responsibility for carrying out governmental functions to local agencies, which are 'ill equipped' to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose." *County of San Diego v. State of California* (1991) 15 Cal.4th 68, 81. The Legislature implemented section 6 by enacting a comprehensive administrative scheme to establish and pay mandate claims. Govt. Code § 17500 *et seq*.; *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331, 333 (statute establishes "procedure by which to implement and enforce section 6").

"Costs mandated by the state" include "any increased costs which a local agency … is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution." Govt. Code § 17514.

Govt. Code § 17516 defines "executive order" to mean "any order, plan, requirement, rule or regulation issued by the Governor, any officer or official serving at the pleasure of the Governor, or any agency, department, board, or commission of state government."

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

> (a) The claim is submitted by a local agency . . . that requested legislative authority for that local agency . . . to implement the program specified in the statute, and that statute imposes costs upon that local agency or school district requesting the legislative authority. . . .

[6] See Section 7, Exhibit F.

(b) The statute or executive order affirmed for the state a mandate that had been declared existing law or regulation by action of the courts.

(c) The statute or executive order imposes a requirement that is mandated by a federal law or regulation and results in costs mandated by the federal government, unless the statute or executive order mandates costs that exceed the mandate in that federal law or regulation. . . .

(d) The local agency . . . has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service.

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

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

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

IV. THE MANDATES AT ISSUE HERE ARE STATE MANDATES FOR WHICH CLAIMANTS ARE ENTITLED TO A SUBVENTION OF FUNDS

As noted, Calif. Const. article XIII B section 6 requires a subvention of funds whenever the Legislature or any state agency imposes a new program or higher level of service on any local government. A "program" within the meaning of article XIII B section 6, is a program that carries out a governmental function of providing services to the public, or laws which, to implement a state policy, impose unique requirements on local governments. *County of Los Angeles v. State of California* (1987) 43 Cal.3d, 46, 56; *see also County of Los Angeles*, *supra*, 150 Cal.App.4th at 907..

The Permit requirements at issue here are "programs" within the meaning of article XIII B, section 6 in that they require Claimants to provide certain services to the public. The Permit requirements here are unique because they arise from the operation of a MS4 NPDES Permit, which is a permit issued only to municipalities and which requires activities that are not required of any private, non-governmental discharger. These requirements include the adoption of ordinances, the development and amendment of government planning documents and electronic

databases, the inspection of facilities, the enforcement of statutes and ordinances and other governmental activities.

Under the Permit, Claimants either comply directly with its specific provisions or comply through a Watershed Management Program ("WMP") or Enhanced Watershed Management Program ("EWMP"), as set forth in Part VI.C of the Permit. The WMP and EWMP are intended to allow permittees, individually or collectively, to develop a coordinated plan to implement the requirements of the Permit. Permit Part VI.C.1.a. For example, permittees that prepare a WMP or EWMP can prepare a customized program to comply with the "Storm Water Management Program Minimum Control Measures" ("MCM") set forth in Permit Part VI.D. Part VI.C.5.b.(iv). However, the control measures set forth in the WMP or EWMP must be consistent with those MCM control measures set forth in Permit Part VI.D, which are "incorporated" as part of the WMP or EWMP pursuant to Part VI.C.5.b.(iv).

Permittees which participate in a WMP or EWMP must assess the MCMs for the Development Construction Program (Part VI.D.8), the Industrial/Commercial Facilities Program (Part VI.D.6), the Illicit Connection and Illicit Discharges Detection and Elimination Program (Part VI.D.10), the Public Agency Activities Program (Part VI.D.9) and the Public Information and Participation Program (Part VI.D.5) and identify "potential modifications" that will address watershed priorities." Part VI.C.5.b.(iv)(1)(a). The discretion of permittees participating in a WMP or EWMP is thus constrained by the requirements of the MCMs. Permit Part VI.C.5.b.(iv)(1)(c) further requires that if a permittee "elects to eliminate a control measure identified in Parts VI.D.4 [relating to the Los Angeles County Flood Control District], VI.D.5, VI.D.6 and VI.D.8 to VI.D.10 because that specific control measure is not applicable to the Permittee(s), the Permittee(s) shall provide a justification for its elimination." Control measures set forth in the Permit's Planning and Land Development Program (Permit Part VI.D.7) are "not eligible for elimination." *Id.*

Permittees participating in a WMP or EWMP also must, with regard to non-stormwater discharge measures, include "strategies, control measures, and/or BMPs that must be implemented to effectively eliminate the source of pollutants consistent with Parts III.A [which addresses non-stormwater discharges] and VI.D.10 [the MCM concerning illicit connection and illicit discharges detection and elimination]." Permit Part VI.C.5.b.(iv)(2). Additionally, as discussed in Section IV.A. below, permittees can also comply with Total Maximum Daily Load ("TMDL") programs through participation in a WMP or EWMP.

Thus, the specific requirements of the Permit as to MCMs, non-stormwater discharges, and TMDL and RWL compliance drive the scope and ultimate expense of the development and implementation of the WMP or EWMP. The WMP or EWMP is one means of complying with the mandates imposed by the Permit. Permittees participate in a WMP/EWMP (which must be consistent with the Permit's specific requirements) or otherwise comply directly with the Permit's specific requirements. Permit Part VI.C.4.e. If a permittee does not have an approved WMP or EWMP within the time deadlines set forth in the Permit, it "shall be subject to the baseline requirements in Part VI.D [the MCM] and shall demonstrate compliance with receiving

water limitations pursuant to Part V.A and with applicable interim water quality-based effluent limitations in Part VI.E . . . ." *Id.*

Finally, none of the exceptions set forth in Govt. Code § 17556 apply to this Test Claim. The exceptions identified in Govt. Code §§ 17556(a), (b), (e), (f) and (g) are not relevant to this Test Claim: Claimants did not request legislative authority to implement these programs; the Permit did not affirm a mandate that had been declared existing law; there is no provision for offsetting savings; the Permit does not relate to an approved ballot measure; and, the Permit does not create a new crime or infraction.

A. TMDL Requirements

1. Mandate Requirements in the Permit

The Permit requires Claimants to comply with applicable water quality-based effluent limitations and receiving water limitations contained in the Total Maximum Daily Loads ("TMDLs") set forth in the Permit's attachments L through R. Claimants must comply with the implementation plans and schedules in state adopted TMDLs, and can comply with interim limits and EPA-adopted TMDLs through a WMP or EWMP, as discussed above. Permit Parts VI.E.1.c, VI.E.2.d, and VI.E.3.

As part of this compliance, permittees, such as Claimants, must sample and analyze water samples at TMDL "receiving water compliance points" and at storm water and non stormwater outfalls as designated in TMDL Monitoring Plans. Permit Part VI.B and Attachment E, Parts II.E.1-3, and Part V. This monitoring can be part of an Integrated or Coordinated Integrated Monitoring Program. The monitoring programs can be developed in conjunction with any watershed management program or enhanced watershed management program for a particular water body. Permit Part VI.C.7.

As set forth in Permit Attachment K, the following Claimants are subject to TMDLs for the following watersheds:

(1) Santa Clara River Watershed Management Area (Permit Attachment L): City of Santa Clarita.

(2) Santa Monica Bay Watershed Management Area (Permit Attachment M): Cities of Agoura Hills, Beverly Hills, Manhattan Beach, Rancho Palos Verdes, Redondo Beach and Westlake Village.

(3) Dominguez Channel Watershed Management Area (Permit Attachment N): Cities of Carson, Manhattan Beach, Rancho Palos Verdes and Redondo Beach.

(4) Los Angeles River Watershed Management Area (Permit Attachment O): Cities of Carson, Commerce, Downey, Huntington Park, Lakewood, Pico Rivera, San Marino, Signal Hill, South El Monte and Vernon.

(5) San Gabriel River Watershed Management Area (Permit Attachment P): Cities of Cerritos, Covina, Downey, Lakewood, Norwalk, Pico Rivera, Santa Fe Springs, South El Monte and Whittier.

(6) Los Cerritos Channel and Alamitos Bay Watershed Management Area (Permit Attachment Q): Cities of Bellflower, Cerritos, Downey and Signal Hill. .

The Permit's specific mandates are as follows:

a. Part VI.E.1.c. requires Claimants to "comply with the applicable water quality-based effluent limitations and/or receiving water limitations contained in Attachments L through R, consistent with the assumptions and requirements of the WLAs established in the TMDLs, including implementation plans and schedules, where provided for in the State adoption and approval of the TMDL (40 CFR 122.44(d)(1)(vii)(B); Cal. Wat. Code § 13263(a))."

b. Permit Attachment K sets forth the TMDLs with which Claimants must comply (TMDLs in the respective watersheds for each Claimant are set forth above).

c. Attachments L through Q of the Permit set forth the requirements of each TMDL and its "waste load allocations ("WLAs")" with which Claimants must comply.

d. Part VI.B of the Permit requires Claimants "to comply with the [Monitoring and Reporting Program] and future revisions thereto, in Attachment E of this Order or may, in coordination with an approved Watershed Management Program per Part VI.C, implement a customized monitoring program that achieves the five Primary Objectives set forth in Part II.A of Attachment E and includes the elements set forth in Part II.E of Attachment E."

e. Permit Attachment E requires that in the performance of the monitoring program, Claimants must include monitoring at "TMDL receiving water compliance points" and other "TMDL monitoring requirements specified in approved TMDL Monitoring Plans." (Permit, Attachment E, Parts II.E.1 through 3 and Part V; *see also* Permit Attachment E. Parts VI.A.1.b.(iii-iv), VI.B.2, VI.C.1.a, VI.D.1.a, VIII.B.1.b.(ii), IX.A.5, IX.C.1.a, IX.E.1.a and b, IX.G.1.b., and IX.G.2.)

Claimants can meet their TMDL compliance requirements through participation in a WMP or EWMP that addresses the TMDL. Permit Part VI.E.2.a.

2. These Permit Requirements are New Programs or Higher Levels of Service

As adopted, the 2001 Permit included no TMDL provisions or associated required monitoring. On December 10, 2009, the permit was amended to incorporate provisions of the Los Angeles River Watershed Trash TMDL (Regional Board Order No. R4-2009-0130).[7]

[7] The 2001 Permit was also amended to include provisions relating to the Marina del Rey Bacteria TMDL. That TMDL does not apply to the Claimants.

With respect to the Los Angeles River Trash TMDL, under the 2001 Permit, permittees were required to be in compliance with the applicable interim or final effluent limitations for that TMDL as identified in 2001 Permit. 2001 Permit, Part 7.1.B.2. Those interim or final effluent limitations required a reduction of trash to 30 percent of the baseline load calculated as a rolling 3-year annual average. *See* LARWQCB Resolution No. 2007-012, Attachment A, Table 7.2.3.[8] The Permit has different requirements; permittees must now reduce trash to zero percent of the baseline allocation. Permit Attachment O, Part A.3.

Accordingly, all TMDL requirements in the Permit applicable to Claimants, including monitoring requirements with respect thereto, are new programs or higher levels of service. These TMDL and monitoring requirements were not imposed on Claimants until the Permit was adopted.

3. These Permit Requirements are State Mandates

The Permit's TMDL requirements, including monitoring, are state mandates. The LARWQCB was not required to include these provisions in the Permit. Instead, the LARWQCB included these TMDL provisions as a matter of discretion.

TMDLs are adopted pursuant to the CWA. 33 U.S.C. § 1313(d) provides that states shall identify waters for which effluent limitations required by 33 U.S.C. §§ 1311(d)(1)(A) and (B) are not stringent enough to implement any "water quality standard" applicable to such waters. 33 U.S.C. § 1313(d)(1)(A).

"Water quality standards" are adopted by the state. These standards consist of the designated uses of a navigable water and the water quality criteria for such waters to support such uses. *See* 33 U.S.C. § 1313(c)(2)(A).

A state must establish a TMDL for those waters for which the effluent limitations are not stringent enough to implement any water quality standard. 33 U.S.C. § 1313(d)(1)(A). The TMDL must be established at a level necessary to implement the applicable water quality standards with seasonal variations and a margin of safety which takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality. 33 U.S.C. § 1313(d)(1)(C).

Under the federal CWA regulations, a TMDL is composed of both "Wasteload Allocations" ("WLAs") and Load Allocations ("LAs"). 40 C.F.R. § 130.2(g) and (h). The TMDL is the sum of the individual WLAs for point sources and LAs for non-point sources and natural background. 40 C.F.R. § 130.2(i).

The Permit requires permittees to comply with the TMDLs referenced in the Permit and their associated WLAs. These WLAs are numeric limitations on the permittees' discharges; the permittees must develop programs to limit the pollutants in their discharges to these WLAs. Permit Part VI.E.1.c.; Permit, Attachments L through R.

[8] See Section 7, Exhibit F.

The LARWQCB was not required to include the TMDL provisions in the Permit. As set forth above, TMDL provisions are solely for the purpose of implementing water quality standards. Federal law, however, does not require municipal stormwater permits to contain provisions to meet water quality standards. *Defenders, supra,* 191 F.3d at 1164-65. Instead, municipal permits must contain controls "to reduce the discharge of pollutants to the maximum extent practicable . . . ." 33 U.S.C. § 1342(p)(3)(B)(iii). EPA or a state has the *discretion* to require compliance with water quality standards pursuant to the provision of 33 U.S.C. § 1342(p)(3)(B)(iii), which provides that municipal stormwater permits shall contain "such other provisions as the Administrator or the State *determines appropriate* for the control of such pollutants." (emphasis supplied.) Because requiring compliance is discretionary, it is not mandated by federal law. *Defenders*, 191 F.3d at 1166-67.

Similarly, the federal stormwater regulations do not require municipal stormwater permits to contain TMDL provisions. 40 C.F.R. § 122.44(d)(1)(vii)(B) addresses the interrelationship between TMDLs and NPDES permits. This regulation provides that NPDES permits are to include conditions consistent with the assumptions and requirements of TMDL waste load allocations "when applicable." 40 C.F.R § 122.44. Because MS4 permits are not required to contain provisions to comply with water quality standards, TMDL wasteload allocations intended to achieve such standards are not "applicable."

The Fact Sheet adopted by the LARWQCB in support of the Permit recognized that the LARWQCB's inclusion of the TMDL provisions was not mandated but was adopted pursuant to the discretionary portion of 33 U.S.C. § 1342(p)(3)(B)(iii). Permit Attachment F, p. F-84.) The Fact Sheet also cited two California statutes as support for the incorporation of the TMDLs, Water Code §§ 13263 and 13377, which provide that permits shall include more stringent effluent standards or limitations to implement water quality control plans. *Id.* These facts demonstrate that the LARWQCB's inclusion of the TMDL provisions was a state agency decision, and thus a state, not a federal, mandate. A subvention of funds is appropriate not only for the cost of the structural controls and non-structural programs to achieve the WLAs but also the monitoring required by the TMDL implementation plans.

The CWA also does not require the inclusion of numeric effluent limitations. As set forth above, 42 U.S.C. § 1342(p)(3)(B)(iii) provides that MS4 permits "shall require controls to reduce the pollutants to the maximum extent practicable . . . and such other provisions as the Administrator or the state determines appropriate for the control of such pollutants." *Defenders* held that this provision did not require the inclusion of numeric effluent limits to meet water quality standards in MS4 permits, but that EPA or a state had the discretion to include them. 191 F.3d at 1165-66. *See also Building Industry Ass'n, supra,* 124 Cal.App.4th at 874 ("With respect to municipal stormwater discharges, Congress clarified that the EPA has the authority to fashion NPDES permit requirements to meet water quality standards without specific numeric effluent limits and instead to impose 'controls to reduce a discharge of pollutants to the maximum extent practicable'").

On November 22, 2002, EPA issued a guidance memorandum on "Establishing Total Maximum Daily Load (TMDL) Wasteload Allocations (WLAs) for Storm Water Sources and

NPDES Permit Requirements based on Those WLAs." In this memorandum,[9] EPA noted that because stormwater discharges are due to storm events, which are highly variable in frequency and duration and are not easily characterized, only in rare cases will it be feasible or appropriate to establish numeric limits for municipal stormwater discharges. *Id.* p. 4. EPA concluded that, in light of 33 U.S.C. § 1342(p)(3)(B)(iii), "for NPDES-regulated municipal and small construction discharges effluent limits should be expressed as best management practices (BMPs) or other similar requirements, rather than as numeric effluent limits." *Id.*

The LARWQCB was therefore not required by the CWA or its implementing regulations to incorporate TMDLs and their WLAs into the Permit. Even if it was so required, it was not required to reflect TMDL requirements as numeric effluent limits. Because federal law did not require the LARWQCB to include the TMDLs, the monitoring program to implement those TMDLs was also not required. These requirements are state mandated requirements imposed by the LARWQCB itself.

4. Actual and Estimated Increased Costs

As set forth in the Declarations in Section 6, the cost of the efforts required with regard to compliance with these TMDL provisions, including monitoring, have exceeded $1,000 in FYs 2012-2013 and 2013-2014 and are expected to exceed $1,000 in succeeding fiscal years. *See* Declarations in Section 6.

B. Requirements Related to Discharge Prohibitions For Non-Stormwater

Part III.A.1 of the Permit requires the permittees, including Claimants, to prohibit certain non-stormwater discharges "through the MS4 to receiving waters." For non-exempted non-stormwater flows, the permittees, including Claimants, are required to develop and implement various procedures relating to such flows. Such requirements either exceed the requirements of the CWA and federal stormwater regulations or specify the means of compliance with the Act and the regulations, and consequently are state mandates.

As noted above, Claimants can prepare a WMP or EWMP that would incorporate provisions regarding non-stormwater discharges. However, the Permit requires that any such WMP or EWMP provisions must include "strategies, control measures, and/or BMPs that must be implemented to effectively eliminate the source of pollutants consistent with Parts III.A . . . . " Part VI.C.5.b.(iv)(2). Thus, the provisions of Part III.A. discussed below represent state-mandated requirements for new programs or higher levels of service that will, in whole or in part, be part of a WMP or EWMP.

1. Mandate Requirements in the Permit

Permit Part III.A.1 of the Permit requires Claimants to prohibit certain non-stormwater discharges "through the MS4 to receiving waters."

[9] See Section 7, Exhibit F.

Parts III.A.2 and VI.D.9.f., relating to conditional exemptions from the non-stormwater discharge prohibition, requires Claimants to assure that appropriate BMPs are employed for discharges from essential non-emergency firefighting activities and, with regard to unpermitted discharges by drinking water suppliers, to work with those suppliers on the conditions of their discharges.

Part III.A.4.a requires Claimants to "develop and implement procedures" to require non-stormwater dischargers to fulfill requirements set forth in Part III.A.4.a.(i-vi).

Part III.A.4.b requires Claimants to "develop and implement procedures that minimize the discharge of landscape irrigation water into the MS4 by promoting water conservation programs." Permittees are required to coordinate with local water purveyors, where applicable, to promote landscape water use efficiency requirements, use of drought tolerant native vegetation and the use of less toxic options for pest control and landscape management. Permittees are required to develop and implement a "coordinated outreach and education program" to minimize the discharge of irrigation water and pollutants associated with such discharge as part of the Public Information and Participation in Part VI.D.4.c of the Permit.

Part III.A.4.c requires Claimants to evaluate monitoring data collected pursuant to the Monitoring and Reporting Program of the Permit (Attachment E) and "any other associated data or information" to determine if any authorized or conditionally exempt non-stormwater discharges identified in Permit Parts III.A.1, A.2 and A.3 are a source of pollutants that may be causing or contributing to an exceedance of a receiving water limitation in Part V or water quality-based effluent limitation in Part VI.E.

Part III.A.4.d. requires that if these data show that the non-stormwater discharges are such a source of pollutants, Claimants are required to take further action to determine whether the discharge is causing or contributing to exceedances of receiving water limitation and to report those findings to the LARWQCB and to take steps to effectively prohibit, condition, require diversion or require treatment of the discharge.

2. The Permit Requirements are New Programs or Higher Levels of Service

The Permit requirements set forth above are new programs or higher levels of service that have not been imposed on Claimants before. This can be seen by a comparison of these activities to the 2001 Permit.

The 2001 Permit required that permittees "effectively prohibit non-storm water discharges into the MS4 and watercourses" unless the non-stormwater discharge fell into one of several categories. 2001 Permit Part 1.A. The LARWQCB reserved to itself the obligation to add or remove categories of exempt non-stormwater discharges (page 24).

The 2001 Permit did not require the permittees to:

(a) police, through the establish of procedures and standards, the categories of the "conditionally exempt" discharges to the MS4;

(b) assure that appropriate BMPs were employed for discharges from essential non-emergency firefighting activities or drinking water supply systems;

(c) implement procedures that minimized the discharge of landscape irrigation water into the MS4 or to coordinate with local water purveyors to promote landscape water use efficiency requirements;

(d) evaluate monitoring data to determine if any authorized or conditionally exempt non-stormwater discharges were a source of pollutants that may be causing or contributing to an exceedance of a receiving water limitation. (This previously was an obligation of the LARWQCB.); and

(e) "develop and implement procedures" to require non-stormwater dischargers to fulfill requirements set forth in Part III.A.4.a.(i-vi).

The above-describe requirements of the Permit are therefore new programs or higher levels of service.

3. The Permit Requirements are State Mandates

The CWA requires MS4 NPDES permits to "include a requirement to effectively prohibit non-stormwater discharges *into* the storm sewers." 33 U.S.C. § 1342(p)(3)(B)(ii) (emphasis supplied). The CWA does not, however, require regulation of non-stormwater discharges from storm sewers. The federal CWA regulations, in 40 C.F.R. § 122.26(d)(2)(iv)(B)(1):

(1) do not require a municipality to address certain specified categories of non-stormwater discharges into the MS4 unless the municipality determines that such discharges are sources of pollutants to "waters of the United States";

(2) do not require a municipality *to affirmatively evaluate* those discharges to determine if they are such a source of pollutants, as required by Section III.A of the Permit; and

(3) refer to the discharges as sources of pollutants to "waters of the United States," not to MS4 systems.

Because the non-stormwater Permit requirements go beyond the requirements set forth in the federal CWA regulations, these requirements are state mandates requiring a new program and/or higher level of service. Govt. Code § 17556(c). Additionally, by specifying the steps to be taken by the Claimants with regard to the evaluation of non-stormwater discharges, including the development and implementation of procedures, the evaluation of monitoring data, reporting to the LARWQCB, coordination with local water purveyors and other requirements, the LARWQCB in the Permit has specified the means of compliance with the non-stormwater discharge requirements. *Long Beach Unified School Dist. v State of California* (1990) 225 Cal.App.3d 155, 172-73. Even if these requirements were federal in origin, the specification of compliance renders the Permit provisions as state mandates. *Id*.

Finally, to the extent that these were previously performed by the LARWQCB, the LARWQCB in the Permit freely chose to impose these requirements on permittees rather than perform them itself. As such, a state mandate was imposed. *Hayes v. Comm'n on State Mandates* (1992) 11 Cal.App.4th 1564, 1593-94.

4. Actual and Estimated Increased Costs

As set forth in the Declarations in Section 6, the costs concerning the non-stormwater discharge requirements set forth above, among other items, have exceeded $1,000 in FYs 2012-2013 and 2013-2014. The costs to implement such requirements are expected to exceed $1,000 in succeeding fiscal years. *See* Declarations in Section 6.

C. Public Information Program Requirements

Part VI.D.5 requires the permittees, including Claimants, to undertake specific Public Information and Participation Program ("PIPP") activities, including either individually or as part of a County-wide or Watershed Group sponsored PIPP, to conduct various public information activities.

As discussed above, Claimants can prepare a WMP or EWMP that would incorporate PIPP measures in a customized watershed-specific fashion. However, since such WMP or EWMP must assess the requirements of Part VI.D.5 and incorporate/customize all control measures set forth therein, unless their elimination is justified by a Claimant as not applicable (Part VI.C.5.b.(iv)(c)), the provisions set forth below establishing new programs and/or a higher level of service are state mandates.

1. Mandate Requirements in the Permit

The Permit, in Part VI.D.5.a requires Claimants to "measurably increase" the knowledge of target audiences about the MS4, adverse impacts of stormwater pollution on receiving waters and potential solutions to mitigate impacts, to "measurably change" waste disposal and stormwater pollution generation behavior by developing and encouraging implementation of "appropriate alternatives and to "involve and engage a diversity of socio-economic groups and ethnic communities" in Los Angeles County to participate in stormwater pollution impact mitigation.

Part VI.D.5.b requires the permittees to implement the PIPP activities by participating in a County-wide or Watershed Group-sponsored PIPP or individually.

Part VI.D.5.c requires Claimants to provide a means for public reporting of clogged catch basin inlets and illicit discharges/dumping, faded or missing catch basin labels and "general storm water and non-storm water pollution prevention information" through a telephone hotline, in public information or government pages of the telephone book, identify staff or departments serving as contact persons and providing current, updated hotline information. This part also requires permittees to organize events "targeted to residents and population subgroups" to "educate and involve the community in storm water and non-storm water pollution prevention and clean-up (e.g., education seminars, clean-ups, and community catch basin stenciling)."

Part VI.D.5.d requires Claimants to conduct stormwater pollution prevention public service announcements and advertising campaigns, provide public education materials on the proper handling of vehicle waste fluids, household waste materials, construction waste materials, pesticides and fertilizers (including integrated pest management ("IPM") practices), green waste and animal wastes; distribute "activity specific" stormwater pollution prevent public education materials at, but not limited to, automotive parts stores, home improvement centers, lumber yards and hardware and paint stores, landscaping and gardening centers and pet shops and feed stores; maintain stormwater websites or provide like to stormwater websites via the Claimant's website, which must include educational material and opportunities for public participation in stormwater pollution and cleanup activities; and, provide schools within each Claimant's jurisdiction with materials to educate K-12 students on stormwater pollution.

In each of the VI.D.5.d requirements, Claimants "shall use effective strategies to educate and involve ethnic communities in storm water pollution prevention through culturally effective methods." *Id.* This requires Claimants to identify such ethnic communities and appropriate culturally effective methods.

2. The Permit Requirements are New Programs or Higher Levels of Service

The above-described requirements in the Permit are new programs or a higher level of service, as can be seen in a comparison with the requirements of the 2001 Permit.

The 2001 Permit contained no requirements for permittees other than the Los Angeles County Flood Control District, Principal Permittee under that permit, to undertake these PIPP obligations. Thus, these PIPP obligations are new obligations.

3. The Permit Requirements are State Mandates

The federal stormwater regulations require that a permittee must include in its management program "[a] description of a program to promote, publicize, and facilitate public reporting of the presence of illicit discharges or water quality impacts associated with discharges from municipal separate storm sewers" and a "description of educational activities, public information activities, and other appropriate activities to facilitate the proper management and disposal of used oil and toxic materials." 40 C.F.R. § 122.26(d)(2)(iv)(B)(5-6).

Additionally, 40 C.F.R. § 122.26(d)(2)(iv)(A)(6) requires that the management program include a "description of a program to reduce to the maximum extent practicable, pollutants in discharges from MS4s associated with the application of pesticides, herbicides, and fertilizer which will include, as appropriate, controls such as educational activities, permits, certifications, and other measures for commercial applicators and distributors, and controls for application in public right-of-ways and at municipal facilities." While this regulation was cited in the Permit Fact Sheet (F-56), the requirements in Part VI.D.5 apply to the general population, not solely to commercial applicators and distributors of pesticides, herbicides and fertilizer.

The requirements set forth in Part VI.D.5 of the Permit both go beyond the requirements of the federal regulations and specify methods of compliance, which lead to the conclusion that the requirements are a state, not federal, mandate. Govt. Code § 17556(c); *Long Beach Unified*

School Dist., supra. The Permit requirements exceed the federal requirements in several ways, including the requirements related to public information activities relating to materials other than used and oil and toxic materials, requirements to target educational and public information programs at ethnic communities and to organize events targeted to residents and population subgroups.

With regard to the specification of the means of compliance, a comparison of the detailed and mandatory requirements of Part VI.D.5 with the general and flexible requirements of the federal stormwater regulations demonstrates that the LARWQCB intended in the Permit to direct the specific compliance of the permittees, including Claimants, with regard to their PIPP efforts.

4. Actual and Estimated Increased Costs

As set forth in the Declarations in Section 6, the cost of the efforts concerning the PIPP requirements set forth above, among other items, have exceeded $1,000 in FYs 2012-2013 and 2013-2014. The costs to implement such requirements are expected to exceed $1,000 in succeeding fiscal years. *See* Declarations in Section 6.

D. Inventory and Inspections of Industrial/Commercial Sources

Part VI.D.6 of the Permit requires Claimants to track various "critical" industrial and commercial sources, including within such tracking an electronic database containing information regarding such sources and to inspect such sources.

As discussed above, Claimants, can prepare a WMP or EWMP that would incorporate industrial/commercial source control measures in a customized watershed-specific fashion. However, since such WMP or EWMP must assess the requirements of Part VI.D.6 and incorporate/customize all control measures set forth therein, unless their elimination is justified by a Claimant as not applicable (Part VI.C.5.b.(iv)(c)), the provisions set forth below establishing new programs and/or a higher level of service are state mandates.

1. Mandate Requirements in the Permit

Permit Part VI.D.6 requires that Claimants develop and implement an industrial/commercial source program following, at minimum, the requirements set forth in that part.

Part VI.D.6.b requires the tracking of nurseries and nursery centers in addition to other sources and the inclusion of information regarding the source, including the North American Industry Classification System code, the status of exposure of materials to stormwater, the name of the receiving water, identification of whether the facility is tributary to a waterbody listed as impaired under CWA § 303(d) where the facility generates pollutants for which the waterbody is impaired, and whether the facility has filed a "No Exposure Certification" with the State Board. This provision requires Claimants to conduct field work to identify facilities and to collect information sufficient to fill the tracking database. Additionally, Claimants must update the inventory at least annually, through collection of information through field activities or through other readily available inter- and intra-agency informational databases.

Part VI.D.6.d requires that commercial facilities (restaurants, automotive service facilities (including those at automotive dealerships), retail gasoline outlets and nurseries and nursery centers be inspected twice during the term of the Permit, with the first inspection to occur within 2 years after the effective date of the Permit. In the inspection the permittees are required, among other things, to evaluate whether the source is implementing "effective source control BMPs for each corresponding activity" and to require implementation of additional BMPs where "storm water from the MS4 discharges to a significant ecological area . . . , a water body subject to TMDL provisions . . . or a CWA § 3030(d) listed impaired water body." In addition to basic inspection obligations, this provision requires Claimants to identify waterbodies into which the facilities discharge and to evaluate the effectiveness of BMPs at the facilities.

Part VI.D.6.e requires Claimants to inspect industrial facilities, including the categories of facilities identified in 40 C.F.R. § 122.26(b)(14)(i-xi) (the "Phase I facilities"), and facilities specified in 40 C.F.R. § 122.26(d)(2)(iv)(C) (the "Specified Facilities"). Included among the inspection requirements are to confirm that each facility was a current Waste Discharge Identification ("WDID") number for coverage under the GIASP or has applied for and received a current No Exposure Certification, and to require implementation of additional BMPs where "storm water from the MS4 discharges to a water body subject to TMDL Provisions . . . or a CWA § 303(d) listed impaired water body." For facilities that discharge to MS4s that discharge to an Significant Ecological Area ("SEA"), the permit requires that Claimants "shall require operators to implement additional pollutant-specific controls to reduce pollutants in storm water runoff that are causing or contributing to exceedances of water quality standards." In addition to basic inspection obligations, this provision requires Claimants to identify waterbodies into which the facilities discharge and to evaluate the effectiveness of BMPs at the facilities.

2. The Requirements are New Programs or Higher Levels of Service

The requirements described above are new requirements or represent a higher level of service. This is evident from a comparison with the requirements of the 2001 Permit. Additionally, while some tracking and inspection requirements were carried over from the 2001 Permit, those requirements were determined by the Commission to represent a new program and/or higher level of service in the Los Angeles County Test Claim. Thus, such requirements in the Permit continue this new program and/or higher level of service.

The 2001 Permit required tracking of commercial facilities (but not nurseries and nursery centers), Phase I facilities and Specified Facilities. 2001 Permit, Part 4.C.1.(a), The information required in such tracking, however, included only the facility name and address, the name of the owner/operator, whether it was covered under the GIASP or other individual or general NPDES permit and a narrative description "including SIC codes that best reflects the industrial activities at and principal products of each facility." 2001 Permit, Part 4.C.1.(b). Also, the 2001 Permit did not require permittees to maintain the tracking in an electronic database.

With respect to inspections, 2001 Permit Part 4.C.2 required inspections of the same types of facilities as in the Permit (inspections that the Commission determined were a state mandate), but did not require the inspectors to evaluate the effectiveness of the BMPs at the facilities.

3. The Requirements are State Mandates

The federal stormwater regulations require that a permittee's management program include a "description of a program to monitor and control pollutants in storm water discharges to municipal systems from municipal landfills, hazardous waste treatment, disposal and recovery facilities, industrial facilities that are subject to section 313 of title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA), and industrial facilities that the municipal permit applicant determines are contributing a substantial pollutant loading to the municipal storm sewer system." 40 C.F.R. § 122.26(d)(2)(iv)(C). Included in this program must be an identification of "priorities and procedures for inspections . . . ." 40 C.F.R. § 122.26(d)(2)(iv)(C)(i). These regulations are cited in the Permit Fact Sheet as legal authority for the inspection requirements. Permit Attachment F, pp. F-58-59.

Thus, the only requirement in the federal regulations for the inspection of industrial or commercial facilities is that relating to the Specified Facilities. There are no requirements to inspect the commercial facilities or the Phase I facilities identified in Part VI.D.6 of the Permit. In fact, the requirement to inspect Phase I facilities represents a shifting of state responsibility to inspect GIASP permittees to local agencies, a shifting which itself creates a state mandate. *Hayes, supra*, 11 Cal.App.4th at 1593-94. The Commission itself determined in the Los Angeles County Test Claim that the requirement to inspect facilities other than the Specified Facilities represented a state mandate.

Moreover, nothing in the federal regulations requires Claimants to confirm that an industrial facility maintains a WDID or No Exposure Certificate (requirements of the state-enforced GIASP) or to require additional BMPs for discharges into an SEA, a waterbody subject to TMDL provisions or a CWA § 303(d) listed waterbody. Because these facilities must obtain an independent NPDES permit through issuance of a state WDR (pursuant to Water Code § 13260), it is the responsibility of the State Board or a regional board, such as the LARWQCB, to ensure that the permit requires adequate BMPs to ensure compliance with discharge requirements. The Permit shifts that state responsibility to the local permittees, a shifting that, again, represents a state mandate. *Hayes, supra*, 11 Cal.App.4th at 1593-94.

4. Actual and Estimated Increased Costs

As set forth in the Declarations in Section 6, the cost of the efforts concerning industrial and commercial sources set forth above, among other items, have exceeded $1,000 in FYs 2012-2013 and 2013-2014. The costs to implement such requirements are expected to exceed $1,000 in succeeding fiscal years. *See* Declarations in Section 6.

E. Requirements Relating to Post-Construction BMPs

Part VI.D.7.d.(iv) requires Claimants to implement a tracking system and inspection and enforcement program for new development and redevelopment post-construction BMPs.

As discussed above, Claimants can prepare a WMP or EWMP that would incorporate planning and land development provisions in a customized watershed-specific fashion. However, since such WMP or EWMP must assess the requirements of Part VI.D.7 and

incorporate/customize all control measures set forth therein (Part VI.C.5.b.(iv)(c)), the provisions set forth below establishing new programs and/or a higher level of service are state mandates.

1. Mandate Requirements in the Permit

Permit Part VI.D.7.d(iv)(1)(a) and Attachment E, Part X, require the permittees to implement a GIS or other electronic system for tracking projects that have been conditioned for post-construction BMPs, including such information as project identification, acreage, BMP type and description, BMP locations, dates of acceptance and maintenance agreement, inspection dates and summaries and corrective action.

Part VI.D.7.d(iv)(1)(b) requires Claimants to inspect all development sites upon completion of construction and before issuance of an occupancy certificate to "ensure proper installation" of LID measures, structural BMPs, treatment control BMPs and hydromodification control BMPs.

Part VI.D.7.d(iv)(1)(c) requires Claimants to develop a post-construction BMP maintenance inspection checklist and inspect at an interval of at least once every two years permittee-operated post-construction BMPs to assess operation conditions.

2. The Requirements are New Programs or Higher Levels of Service

The above-described requirements in the Permit represent new programs or a required higher level of service. This is demonstrated by comparing these requirements with the 2001 Permit, which had no requirement that the permittees, including Claimants, establish a database for tracking projects with conditions for post-construction BMPs, had no requirement that permittees inspect development sites upon completion of construction to determine the proper installation of LID measures or BMPs and had no requirements to establish a post-construction BMP maintenance inspection checklists or to inspect permittee-operated post-construction BMPs.

3. The Requirements are State Mandates

The above-described requirements are state, not federal mandates, as they represent mandates not required by either the CWA or its regulations. Additionally, even were the requirements considered to be required under federal law, the LAWRQCB's specification of how to comply with such requirements is itself a state mandate.

The federal CWA regulations require that MS4 permits include a

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

40 CFR § 122.26(d)(2)(iv)(A)(2). Nothing in this regulation requires that permittees develop a tracking system for post-construction BMPs or to inspect construction site BMPs for compliance with stormwater requirements. Similarly, nothing in the regulation requires routine inspections of post-construction BMPs operated by the permittees. Both in the exceedance of federal requirements, and in the specification of compliance set forth in the Permit, state mandates have been created. Govt. Code § 17556(c); *Long Beach Unified School Dist., supra,* 225 Cal.App.3d at 172-73.

4. Actual and Estimated Increased Costs

As set forth in the Declarations in Section 6, the cost of the efforts concerning post-construction BMPs and related requirements set forth above, among other items, have exceeded $1,000 in FYs 2012-2013 and 2013-2014. The costs to implement such requirements are expected to exceed $1,000 in succeeding fiscal years. *See* Declarations in Section 6.

F. Construction Site Requirements

Part VI.D.8 of the Permit requires Claimants to follow requirements applicable to construction sites, including inspection of construction sites of one acre or more in size, creation of a construction site inventory and electronic tracking system, the development of technical standards for Erosion and Sediment Control Plans ("ESCP") and for the review of those plans, the development of procedures to review and approve construction site plan documents, and the training of permittee employees.

As discussed above, Claimants can prepare a WMP or EWMP that would incorporate development construction program control measures in a customized watershed-specific fashion. However, since such WMP or EWMP must assess the requirements of Part VI.D.8 and incorporate/customize all control measures set forth therein, unless their elimination is justified by the permittee as not applicable (Part VI.C.5.b.(iv)(c)), the provisions set forth below establishing new programs and/or a higher level of service are state mandates.

1. Mandate Requirements in the Permit

Permit Part VI.D.8.g.(i) requires the permittees, including Claimants, to develop an electronic system to inventory grading, encroachment, demolition, building, or construction permits (or any other municipal authorization to move soil and/or construct or destruct that involves land disturbance).

Part VI.D.8.g.(ii) requires that Claimants complete an inventory of development projects, which must be continuously updated as new sites are permitted and completed. This inventory/tracking system must contain, among other items, contact information for the project, basic site information, the proximity of all water bodies, significant threats to water quality status, current construction phase where feasible, required inspection frequency, start and anticipated completion dates, whether the project has submitted a Notice of Intent to be covered under the GCASP and whether it has obtain GCASP coverage, the date the ESCP was approved and post-construction structural BMPs subject to operation and maintenance requirements.

Part VI.D.8.h requires Claimants to develop and implement review procedures for construction plan documents, including preparation and submittal of an ESCP meeting multiple minimum requirements, verification of GCASP or other permit coverage and other items. In addition, Claimants must develop and implement a checklist to conduct and document review of each ESCP.

Permit Part VI.D.8.i.(i) requires Claimants to develop and implement technical standards for the selection, installation and maintenance of construction BMPs for all sites within their jurisdictions.

Part VI.D.8.i.(ii) requires that such post-construction BMPs must be tailored by Claimants to the risks posed by the project, as well as be in minimum conformance with standards in Permit Table 15, and the use of BMPs meeting the requirements of Permit Tables 14 and 16 for constructions sites of one or more acres or for paving projects, provision of detailed installation designs and cut sheets for use in ESCPs and provision of maintenance expectations for each BMP or category of BMPs.

Part VI.D.8.i.(iv) requires that Claimants make technical standards "readily available" to the development community and that such standards must be "clearly referenced" within each permittee's stormwater or development services website, ordinance, permit approval process and/or ESCP review forms.

Part VI.D.8.i.(v) requires local BMP technical standards to cover all items set forth in Tables 13, 14, 15 and 16 of the Permit.

Part VI.D.8.j requires Claimants to inspect all construction sites of one acre or greater in size on the frequencies set forth in the Permit, which requires inspections prior to land disturbance activities, during active construction and at the conclusion of the project and as a condition to approve and/or issuing a Certificate of Occupancy. The frequency of inspections is also set in Table 17 of the Permit. As part of its inspection obligations, Claimants must develop, implement and revise as necessary standard operating procedures that identify the inspection procedures to be followed by each permittee. Additionally, during inspections, Claimants must verify "active coverage" under the GCASP for specified projects; review the ESCP; inspect the site to determine whether all BMPs have been selected, installed, implemented and maintained; assess the appropriateness of planned and installed BMPs, and their effectiveness; visually observe and record non-stormwater discharge, potential illicit discharges and connections and potential discharge of pollutants in stormwater runoff; develop a written or electronic inspection report generated from a field inspection checklist; and track the number of inspections for the site to ensure that it meets the minimum requirements of Permit Table 17.

Permit Part VI.D.8.l.(i-ii) requires Claimants to ensure training for "all staff whose primary job duties are related to implementing the construction storm water program," including plan reviewers and permitting staff with regard to the "technical review of local erosion and sediment control ordinance, local BMP technical standards, ESCP requirements, and the key objectives of the State Water Board Qualified SWPPP Development ("QSD") program, erosion sediment control/storm water inspectors in inspection procedures consistent with various

standards. Additionally, if outside parties conduct inspections or review plans, each permittee, including Claimants, is required to ensure that such staff are trained under the same requirements.

2. The Requirements are New Programs or Higher Levels of Service

The requirements described above are new programs and/or a higher level of service in that either they were not included as part of Claimants' obligations under the 2001 Permit or, if so, were determined by the Commission to represent a state mandate under the 2001 Permit. To the extent such latter requirements are carried forward in the Permit, they still represent state mandates.

The 2001 Permit did not require Claimants to develop a tracking system to track anything except grading permits. The 2001 Permit did not require the tracking system to be updated or to be populated with the items contained in the Permit. The 2001 Permit did not require Claimants to develop and implement procedures for reviewing construction plan documents, or to develop a checklist to conduct and document the review of the ESCP (which itself was not required under the 2001 Permit.)

The 2001 Permit did not require Claimants to develop and implement technical standards for construction BMPs, did not specify the nature of such BMPs as set forth in the Permit, did not require detailed installation designs or cut sheets or devising maintenance expectations.

The 2001 permit did not require that technical standards be made readily available to the development community or be referenced on Claimants' websites, ordinances, permit approvals or ESCP review forms.

Part 4.E.1 of the 2001 Permit required the permittees to implement a program to control runoff from construction activity at constructions sites within their jurisdiction, including sediments, construction-related materials, wastes spills and residues, non-stormwater runoff from equipment and vehicle washing and erosion from slopes and channels. Part 4.E.2 of the 2001 Permit required that for construction sites of one acre or greater, permittees must require preparation and submittal of a Local Storm Water Pollution Prevention Plan ("SWPPP") for approval prior to a grading permit, inspect such sites at least once during the wet season, and that prior to issuing the site a grading permit, to require proof that the site had filed for coverage under the GCASP. Part 4.E.3 of the Permit require construction sites of five acres or greater to meet the requirements of Parts 4.E.1 and 2 and further that the permittees require proof of coverage under the GCASP, proof of coverage and a copy of the SWPPP if ownership transferred and use of "an effective system to track grading permits issued by each Permittee." Part 4.E.4 required referrals of violations of the state-issued GCASP and Part 4.E.5 required permittees to "train employees in target positions (whose jobs or activities are engaged in construction activities including construction inspection staff) concerning the requirements of the stormwater program.

The Commission determined that these requirements constituted a state mandate. Los Angeles County Test Claim, Statement of Decision at 46-48. The new Permit greatly enhances

the requirements for inspection of construction sites. While the 2001 Permit required only one inspection during the wet season, the new Permit requires inspections at least monthly for most construction sites and during wet weather events and at least once bi-weekly for construction sites that discharge to a tributary listed as an impaired waterbody for sediment or turbidity or which are determined to be a "significant threat" to water quality. Additionally, Claimants are required to inspect phases of construction, including prior to land disturbance, during construction and prior to issuing a Certificate of Occupancy. None of these requirements is contained in the 2001 Permit.

Similarly, the 2001 Permit did not require Claimants to develop, implement and revise as necessary standard operating procedures for inspection procedures. The 2001 Permit also did not require Claimants to review the applicable ESCP (which was not required under the 2001 Permit) or determine whether all BMPs were selected, installed, implemented and maintained according to the ESCP, did not require an assessment of the appropriateness of planned and installed BMPs and their effectiveness, did not require that Claimants make visual observations and keep records of non-stormwater water discharges, potential illicit discharges and connections and potential discharge of stormwater runoff or require Claimants to develop a written or electronic inspection report generated from an inspection checklist used in the field.

Finally, while the 2001 Permit required permittees to train employees regarding requirements of the stormwater management program, it did not require employees with regard to the "technical review of local erosion and sediment control ordinance, local BMP technical standards, ESCP requirements, and the key objectives of the State Water Board QSD program," nor did it require that inspectors be knowledgeable in inspection procedures consistent with the QSD program or to designate a staff person trained in the objectives of the QSD program or the Qualified SWPPP Practitioner program, or that each inspector be knowledgeable regarding local BMP technical standards and ESCP requirements. Finally, the 2001 Permit did not require that if outside parties conducted inspections or review plans, each permittee was required to ensure that such staff was trained under the same requirements.

3. The Requirements are State Mandates

The federal stormwater regulations applicable to Phase I MS4s, such as that operated by the Claimants, provide that a permittee's management program must contain:

"(1) A description of procedures for site planning which incorporate consideration of potential water quality impacts;

(2) A description of requirements for nonstructural and structural best management practices;

(3) A description of procedures for identifying priorities for inspecting sites and enforcing control measures which consider the nature of the construction activity, topography, and the characteristics of soils and receiving water quality; and

(4) A description of appropriate educational and training measures for construction site operators."

40 C.F.R. §122.26(d)(2)(iv)(D)(1-4).

Nothing in this regulation specifies the requirements set forth in Permit Part VI.D.8, outlined above. The Permit requires specific, detailed actions by the permittees that are required by them in order to be in compliance with the requirements of the Permit.

Additionally, the Permit requires the development and maintenance of an inventory of construction sites, which is not required by the regulations. As such, the requirements of Part VI.D.8 both exceed the requirements of the federal regulations and specify the means for permittees to comply with those regulations. The requirements therefore constitute state mandates. *Long Beach Unified School Dist., supra,* 225 Cal.App.3d at 172-73.

Moreover, the Commission itself has determined that less stringent, but comparable, requirements in the 2001 Permit for the permittees to inspect construction sites (requirements that were less stringent than those in the Permit, see Section F.3 below) constituted a state mandate. Los Angeles County Test Claim, Statement of Decision at 42-48.

The Fact Sheet for the Permit does not cite 40 C.F.R. § 122.26(d)(2)(iv)(D)(1-4) as authority for these construction site requirements, even though it is the only applicable regulation for Phase I permits. Instead, the Fact Sheet cites a regulation, 40 C.F.R. § 122.34(b)(4), which is applicable not to the Phase I MS4s, but to the smaller, "Phase II" MS4s. Permit Attachment F at F-72-73. This latter regulation, however, does not apply to Claimants and was adopted under a different regulatory scheme which sets forth various "minimum control measures" for Phase II municipalities to adopt.

4. Actual and Estimated Increased Costs

As set forth in the Declarations in Section 6, the cost of the efforts concerning construction sites and related requirements set forth above, among other items, have exceeded $1,000 in FYs 2012-2013 and 2013-2014. The costs to implement such requirements are expected to exceed $1,000 in succeeding fiscal years. *See* Declarations in Section 6.

G. Public Agency Requirements

Part VI.D.9 of the Permit requires permittees, including Claimants, to undertake numerous tasks with respect to their properties and operations, including an inventory of facilities, an inventory of existing development for retrofitting opportunities, development and implementation of an IPM program, installation of trash excluders or equivalent devices, or take other steps in areas not covered by a Trash TMDL, and training of permittee employees and contractors in the use of pesticides and fertilizers.

As discussed above, permittees, including Claimants, can prepare a WMP or EWMP that would incorporate public agency program control measures in a customized watershed-specific fashion. However, since such WMP or EWMP must assess the requirements of Part VI.D.9 and incorporate/customize all control measures set forth therein, unless their elimination is justified by a Claimant as not applicable (Part VI.C.5.b.(iv)(c)), the provisions set forth below establishing new programs and/or a higher level of service are state mandates.

1. Mandate Requirements in the Permit

Permit Part VI.D.9.c requires Claimants to maintain an "updated inventory" of all permittee-owned or operated facilities that are potential sources of stormwater pollution, including 24 separate categories of facilities that are required to be in the inventory. The inventory must include the name and address of the facility, contact information, a narrative description of activities performed and potential pollution sources, coverage under any individual or general NPDES permits or waivers. The inventory must be updated at least once during the five-year term of the Permit with information collected through field activities or other means.

Part VI.D.9.d(i) requires Claimants to develop an inventory of "retrofitting opportunities" in existing development.

Part VI.D.9.d(ii) requires Claimants to screen existing areas of development "to identify candidate areas for retrofitting using watershed models or other screening level tools." They must then evaluate and rank areas of existing development to prioritize retrofitting candidates.

Part VI.D.9.d(iv) requires Claimants to consider the results of the evaluation by giving "highly feasible" projects a "high priority" to implement source control and treatment control BMPs in the permittee's Storm Water Management Plan ("SWMP") and considering high priority retrofit projects as candidates for off-site mitigation for new development and redevelopment projects.

Part VI.D.9.d(v) requires permittees to cooperate with private landowners to "encourage site specific retrofitting projects." The permittees must consider demonstration retrofit projects, retrofits on public lands and easements, education and outreach, subsidies for retrofit projects, requiring retrofit projects as enforcement, mitigation or ordinance compliance, public and private partnerships, fees for existing discharges to the MS4 and reduction of such fees for retrofit implementation.

Part VI.D.9.g.(ii) requires Claimants to implement an IPM program, including restrictions on the use of pesticides, restricting treatments only to remove the target organism, selection of pest controls that minimize risks to human health, "beneficial non-target organisms" and the environment, partnering with other agencies and organizations to "encourage" the use of IPM and adopt and "verifiably implement" policies, procedures and/or ordinances requiring the minimization of pesticide use and encouraging the use of IPM techniques for public agency facilities and activities. Additionally, permittees in such policies, etc. must commit and schedule to reduce the use of pesticides that cause impairments of surface waters by preparing and updating annually an inventory of pesticides, quantify pesticide use by staff and contractors and demonstrate implementation of IPM alternatives where feasible to reduce pesticide use.

Part VI.D.9.h(vii) requires Claimants, in areas not subject to a Trash TMDL, to install trash excluders, or equivalent devices, on or in catch basins or outfalls, except where such installation would cause flooding, unless lack of maintenance that causes the flooding. Claimants may also employ alternative or enhanced BMPs that "provide substantially equivalent

removal of trash." If alternative means are employed, the permittee must demonstrate that such BMPs "provide equivalent trash removal performance as excluders."

Part VI.D.9.k(ii) requires Claimants to train all employees and contractors "who use or have the potential to use pesticides or fertilizers" that address the potential for pesticide-related surface water toxicity, in the proper use, handling, and disposal of pesticides, least toxic methods of pest prevention and control, including IPM and the reduction of pesticide use.

2. The Requirements are New Programs or Higher Levels of Service

The public agency requirements in the Permit represent a significantly enhanced set of requirements over those set forth in the 2001 Permit, and thus represent new programs or higher levels of service required of Claimants.

The 2001 Permit contained no requirements for permittees to inventory their public facilities or to inventory areas of existing development for retrofitting, to evaluate such areas or to encourage private landowners with respect to retrofitting. The 2001 Permit contained no requirements with respect to development and implementation of an IPM program or for the training of employees or contractors with respect to such a program.

The 2001 Permit contained a requirement that municipalities not covered by a Trash TMDL must place that trash receptacles at transit stops. This requirement was determined to be a state mandate by the Commission in the Los Angeles County Test Claim, Statement of Decision at 1-2. The 2001 Permit did not contain a requirement for trash excluders or other equivalent BMPs.

3. The Requirements are State Mandates

Nothing in the CWA or the stormwater regulations require that permittees are required to maintain an inventory of their public facilities. Similarly, nothing in the CWA or the regulations requires permittees to develop an inventory of existing development as candidates for retrofitting, or to evaluate and rank such candidates, or to include such projects as part of stormwater plans or off-site mitigation projects or to cooperate with private landowners to encourage site specific retrofitting projects.

Similarly, nothing in the CWA or regulations requires the retrofitting of existing developed areas. The only retrofitting requirement in the CWA regulations is one which requires MS4 permits to include "[a] description of procedures to assure that flood management projects assess the impacts on the water quality of receiving water bodies and that existing structural flood control devices have been evaluated to determine if retrofitting the device to provide additional pollutant removal from storm water is feasible." 40 CFR § 122.26(d)(2)(iv)(A)(4). This requirement however applies only to structural flood control devices and does not apply to the type of comprehensive program required of Claimants in Part VI.D.9 of the Permit.

Nothing in the CWA or regulations requires Claimants to develop and implement an IPM program, or to train employees or contractors regarding such requirements. Finally, nothing in the CWA or regulations requires Claimants to install trash excluders or other devices in areas where a Trash TMDL is not in effect. The Commission already concluded in the Los Angeles County Test Claim that a requirement in the 2001 Permit for the placement of trash receptacles was not justified by any provision of the stormwater regulations. Los Angeles County Test Claim, Statement of Decision at 26-31. The Fact Sheet for the Permit identifies no section of the CWA or the implementing regulations as authority for these requirements.

The requirements of Permit Part VI.D.9 outlined above exceed the requirements of the CWA and implementing federal regulations, and are thus state mandates. Govt. Code § 17556(c).

4. Annual and Estimated Increased Costs

As set forth in the Declarations in Section 6, the cost of the efforts concerning public agency activities requirements set forth above, among other items, have exceeded $1,000 in FYs 2012-2013 and 2013-2014. The costs to implement such requirements are expected to exceed $1,000 in succeeding fiscal years. *See* Declarations in Section 6.

H. Illicit Connection and Discharge Program

Permit Part VI.D.10(d) requires Claimants to revise signage adjacent to open channels, to develop and maintain written procedures to document how complaint calls are received, documented and tracked and to maintain documentation of complaint calls. Part VI.D.10(e) requires specific requirements for spill response plans.

As discussed above, Claimants can prepare a WMP or EWMP that would incorporate illicit connection and discharge detection program control measures in a customized watershed-specific fashion. However, since such WMP or EWMP must assess the requirements of Part VI.D.10 and incorporate/customize all control measures set forth therein, unless their elimination is justified by the permittee as not applicable (Part VI.C.5.b.(iv)(c)), the provisions set forth below establishing new programs and/or a higher level of service are state mandates.

1. Mandate Requirements in the Permit

Permit Part VI.D.10.d(iii) requires Claimants to "ensure that signage adjacent to open channels . . . include information regarding dumping prohibitions and public reporting of illicit discharges."

Part VI.D.10.d(iv) requires Claimants to develop and maintain written procedures that document how complaint calls are received, documented and tracked "to ensure that all complaints are adequately addressed. Such procedures must be "evaluated to determine whether changes or updates are needed to ensure that the procedures adequately document the methods employed by the Permittee."

Part VI.D.10.d(v) requires Claimants to maintain documentation of complaint calls and record the location of the reported spill or illicit discharge and the action undertaken in response.

Part VI.D.10.e(i) requires, in pertinent part, that Claimants implement a "spill response plan" for all sewage and other spills that may discharge into its MS4.

Part VI.D.10.e(i)(1) requires that the spill response plan must identify agencies responsible for spill response and cleanup, phone numbers and e-mail addresses for contacts and shall further address coordination with spill response teams "throughout all appropriate departments, programs and agencies so that maximum water quality protection is provided."

Part VI.D.10.e(i)(3-4) require Claimants to respond to spills for containment within four hours of become aware of the spill, or if on private property, within two hours of gaining legal access to the property and reporting of spills that may endanger health or the environment to appropriate public health agencies and the Office of Emergency Services. This requirement requires Claimants to assemble and have available sufficient staff and equipment to meet these requirements.

2. The Requirements are New Programs or Higher Levels of Service

The 2001 Permit contained none of the cited requirements of Permit Parts VI.D.10(d) or (e). Part 4.B.1.a of the 2001 Permit required only that "signs with prohibitive language discouraging illegal dumping must be posted at designated public access points to creeks, other relevant water bodies, and channels . . . ." Thus, the above-cited requirements are new programs or required higher levels of service established by the LARWQCB in the Permit.

3. The Requirements are State Mandates

The Fact Sheet for the Permit (Appendix F) identifies only the general requirement in the CWA that MS4 permittees must "effectively prohibit non-stormwater discharges into the storm sewers." Fact Sheet at F-81 (citing 33 U.S.C. § 1342(p)(3)(B)(ii). The Fact Sheet also cites 40 C.F.R. § 122.26(d)(2)(iv)(B), which requires the permittees' management program to include "a program, including a schedule, to detect and remove (or require the discharger to the municipal storm sewer to obtain a separate NPDES permit for) illicit discharges and improper disposal into the storm sewer. *Id.* at F-80. The Fact Sheet also cites 40 C.F.R. § 122.26(d)(2)(iv)(B)(1), which requires the permittees' management program to include "[a] description of a program, including inspections, to implement and enforce an ordinance, orders or similar means to prevent illicit discharges to the [MS4] . . . ." *Id.* None of these statutory and regulatory provisions governs the cited requirements of Permit Part VI.D.10.d. or e.

The stormwater regulations also require that the management program include a "description of procedures to prevent, contain, and respond to spills that may discharge into the [MS4]" and a "description of a program to promote, publicize, and facilitate public reporting of

the presence of illicit discharges or water quality impacts associated with discharges from [MS4]." 40 CFR §122.26(d)(iv)(B)(4-5).

These regulations do not authorize the specific requirements of Parts VI.D.10.d. and e. First, with respect to the public reporting provisions in Permit Part VI.D.10.d., the Permit requires specific, detailed steps to be taken, including establish of a central contact point, revising signage adjacent to open channels and developing and maintaining written procedures regarding complaint calls. Even assuming that the stormwater regulations require a program to publicize public reporting (and the regulation relates to discharges only "from" the MS4, not into it), in Part VI.D.10.d., the LARWQCB has dictated the means of compliance with regulatory requirements. As such the requirements of this part constitute a state mandate. *Long Beach Unified School Dist. supra*, 225 Cal.App.3d at 172-73.

Similarly, the LARWQCB has dictated the means of compliance with requirements to respond to spills, through the requirements in Part VI.D.10.e. regarding the manner of responding to a spill, including as to coordination, timing and reporting. As such, the requirements of Part VI.D.10.e. constitute a state mandate. *Long Beach Unified School Dist.*, 225 Cal.App.3d at 172-73.

4. Annual and Estimated Increased Costs

As set forth in the Declarations in Section 6, the cost concerning illicit connection and illicit discharges detection and elimination requirements set forth above, among other items, have exceeded $1,000 in FYs 2012-2013 and 2013-2014. The costs to implement such requirements are expected to exceed $1,000 in succeeding fiscal years. *See* Declarations in Section 6.

V. STATEWIDE COST ESTIMATE

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

VI. FUNDING SOURCES

The Claimants are not aware of any designated State, federal or non-local agency funds that are or will be available to fund the mandated activities set forth in this Test Claim, except for portions of a small grant for implementation of tree box low impact development BMPs, but which will not cover all costs. Moreover, the adoption of Proposition 26 by the voters in November 2010, which restricts the ability of local agencies to assess fees that cover than the actual burden or benefit being provided to the payer, further affects the ability of Claimants to offset the new and additional costs imposed in the 2012 Permit.

VII. PRIOR MANDATE DETERMINATIONS

A. Los Angeles County Test Claim

In 2003 and 2007, the County of Los Angeles and 14 cities within the county ("Los Angeles County claimants") submitted test claims 03-TC-04, 03-TC-19, 03-TC-19, 03-TC-20 and 03-TC-21. These test claims asserted that provisions of Los Angeles RWQCB Order No. 01-182 constituted unfunded state mandates. Order No. 01-182, like the 2012 Permit at issue in this Test Claim, was a renewal of an existing MS4 permit. The provisions challenged in these test claims concerned the requirement for the Los Angeles County claimants to install and maintain trash receptacles at transit stops and to inspect certain industrial, construction and commercial facilities for compliance with local and/or state storm water requirements.

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

The Commission approved parameters and guidelines for the trash receptacle mandate, and the State Department of Finance has issued Claiming Instructions to the affected local agencies.

On September 6, 2011, the Commission's decision was overturned by the Los Angeles County Superior Court in an action for writ of mandate brought by the state Department of Finance, the State Board and the RWQCB. On October 16, 2013, the Second District Court of Appeal affirmed the judgment of the superior court. *State Dept. of Finance v. Commission on State Mandates,* Case No. BS237153 (Oct. 16, 2013). On November 26, 2013, the Claimants filed a Petition for Review in the California Supreme Court, which granted the petition on January 29, 2014. As a result of this grant, the Court of Appeal decision has been de-published and is no longer citable. Cal. Rule Court 8.1105(e)(1).

B. San Diego County Test Claim

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

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

1. A requirement to conduct and report on street sweeping activities;

2. A requirement to conduct and report on storm sewer cleaning;

3. A requirement to conduct public education with respect to specific target communities and on specific topics;

4. A requirement to conduct mandatory watershed activities and collaborate in a Watershed Urban Management Program;

5. A requirement to conduct program effectiveness assessments;

6. A requirement to conduct long-term effectiveness assessments; and

7. A requirement for permittee collaboration.

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

On January 5, 2012, the Commission's decision was overturned by the Sacramento County Superior Court and remanded to the Commission as the result of an action for writ of mandate brought by the State Department of Finance, the State Board and the San Diego RWQCB. The San Diego County Claimants appealed that decision to the California Court of Appeal, which has not yet heard argument on the appeal.

VIII. CONCLUSION

Claimants are committed to working together with the RWQCB and other stakeholders to achieve the clean water goals set forth in the Permit.

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

SECTION SIX

DECLARATIONS

In Support of Joint Test Claim of the Los Angeles County Local Agencies Concerning Los Angeles RWQCB Order No. R4-2012-0175 (NPDES No. CAS 004001)

DECLARATION OF GREGORY RAMIREZ

CITY OF AGOURA HILLS

I, Gregory Ramirez, hereby declare and state as follows:

1. I am City Manager for the City of Agoura Hills ("City"). In that capacity, I share responsibility for the compliance of the City with regard to the requirements of California Regional Water Quality Control Board, Los Angeles Region ("LARWQCB") Order No. R4-2012-0175 ("the Permit") as they apply to the City.

2. I have reviewed sections of the Permit and its attachments as set forth herein and am familiar with those provisions. I am also familiar with how the Permit changed requirements that were previously imposed on the City by the prior permit that had issued to the City by the LARWQCB in 2001 ("2001 Permit").

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

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

5. In Section 5 and Section 7 of this Test Claim, which contains exhibits to the test claim filed by the City and other permittees under the Permit, the specific sections of the Permit at issue in the test claim have been set forth. I hereby incorporate such provisions of Sections 5 and 7 into this declaration as though fully set forth herein.

6. The City has elected to participate in a Watershed Management Plan or Enhanced Watershed Management Plan ("WMP/EWMP") that will be designed to address, in whole or in

part, the "Total Maximum Daily Load (TMDL")" provisions of the Permit as well other requirements of the Permit, including those set forth in this Declaration.

7. Based on my understanding of the Permit, I believe that the Permit requires the City to undertake the following programs either directly or through the mechanism of a WMP/EWMP, which represent new programs and/or higher levels of service or the shifting of state responsibilities to the City, which activities were not required by the 2001 Permit and which are unique to local government entities:

a. Implementation of TMDLs:

(i) Part VI.E.1.c. requires the permittees to "comply with the applicable water quality-based effluent limitations and/or receiving water limitations contained in Attachments L through R, consistent with the assumptions and requirements of the WLAs established in the TMDLs, including implementation plans and schedules, where provided for in the State adoption and approval of the TMDL (40 CFR 122.44(d)(1)(vii)(B); Cal. Wat. Code § 13263(a))."

(ii) Attachment K to the Permit sets forth the TMDLs with which the City must comply.

(iii) Attachments L through R of the Permit set forth the requirements of each TMDL and its "waste load allocations " with which the City must comply.

(iv) Part VI.B of the Permit requires the City "to comply with the [Monitoring and Reporting Program] and future revisions thereto, in Attachment E of this Order or may, in coordination with an approved Watershed Management Program per Part VI.C, implement a customized monitoring program that achieves the five Primary Objectives set forth in Part II.A of Attachment E and includes the elements set forth in Part II.E of Attachment E."

(v) Attachment E to the Permit requires the monitoring program to include monitoring at "TMDL receiving water compliance points" and other "TMDL monitoring requirements specified in approved TMDL Monitoring Plans." (Permit, Attachment E, Parts II.E.1 through 3 and Part V; *see also* Attachment E. Parts VI.A.1.b.(iii) and (iv), VI.B.2, VI.C.1.a, VI.D.1.a, VIII.B.1.b.(ii), IX.A.5, IX.C.1.a, IX.E.1.a and b, IX.G.1.b., and IX.G.2.)

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

b. **Requirements related to Discharge Prohibitions for Non-Stormwater**:

(i) Permit Part III.A.1 prohibits certain non-stormwater discharges through the municipal separate storm sewer system ("MS4") to receiving waters. I have been advised that this requirement exceeds the requirements of the Clean Water Act ("CWA").

(ii) Part III.A.2 requires the City to employ best management practices ("BMPs") for discharges from essential non-emergency firefighting activities and, with regard to unpermitted discharges by drinking water suppliers, to work with those suppliers on the conditions of their discharges.

(iii) Part III.A.4.a requires the City to develop and implement procedures covering non-permitted discharges of non-stormwater to the City's MS4 in compliance with the requirements of Part III.A.4.a.(i-vi) of the Permit.

(iv) Part III.A.4.b. requires the City to develop and implement procedures to minimize the discharge of landscape irrigation water into the MS4, including to coordinate with local water purveyors to promote water use efficiency, use of drought tolerant vegetation and use of less toxic options for pest control and landscape management and to develop and implement an outreach and education program to minimize the discharge of irrigation water and associated pollutants.

(v) Part III.A.4.c. requires the City to evaluate monitoring data collected pursuant to the Permit's Monitoring and Reporting Program (Permit Attachment E) and other associated data and information to determine, among other things, if authorized or conditionally authorized non-stormwater discharges are a source of pollutants that may be causing or contributing to an exceedance of receiving water limitations and/or water quality based effluent limitations.

(vi) Part III.A.4.d. requires the City to take action to address such non-stormwater discharges if they are found to be such a source of pollutants, through effective prohibition, conditions, diversions or treatment. These tasks involve, among other things, meeting with non-stormwater dischargers, identifying and analyzing the nature of non-stormwater discharges, the development and implementation of discharge procedures, conducting public education efforts and evaluating monitoring data.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

c. **Public Information Program Requirements**:

(i) Permit Part VI.D.5.a. requires the City to "measurably increase" the knowledge of target audiences about the MS4, the adverse impacts of stormwater pollution on receiving waters and potential solutions to mitigate impacts, to "measurably change" waste disposal and stormwater pollution generation behavior by developing and encouraging implementation of "appropriate alternatives" and to "involve and engage a diversity of socio-economic groups and ethnic communities" to participate in stormwater pollution impact mitigation.

(ii) Permit Part VI.D.5.b. the City to implement Public Information and Participation Program activities by participating in either a County-wide, Watershed Group-sponsored or individual effort.

(iii) Permit Part VI.D.5.c. requires the City to provide a means for public reporting of clogged catch basin inlets and illicit discharges/dumping, faded or missing catch basin labels and general stormwater and non-stormwater pollution prevention information through a telephone hotline or in public information or government pages of the telephone book, identify staff or departments serving as contact persons and providing current, updated hotline information. The City is also required to organize events targeted to residents and population subgroups to "educate and involve the community in storm water and non-storm water pollution prevent and clean-up (e.g., education seminars, clean-ups, and community catch basin stenciling)."

(iv) Permit Part VI.D.5.d. requires the City to conduct stormwater pollution prevention public service announcements and advertising campaigns and provide public education materials on the proper handling of vehicle waste fluids, house, and construction waste, pesticides and fertilizers (including the use of integrated pest management practices), green waste and animal

wastes. This Part further requires the City (a) to distribute public education materials at automotive parts stores, home improvement centers, lumber yards and hardware and paint stores, landscaping and gardening centers and pet shops and feed stores, and (b) to maintain stormwater websites or provide links to stormwater websites via the City's website, which must include educational material and opportunities for public participation in stormwater pollution and cleanup activities and provide schools within the City's jurisdiction with materials to education K-12 students on stormwater pollution. In each of these requirements, Permit Part VID.5.d. requires the City to "use effective strategies to educate and involve ethnic communities in storm water pollution prevention through culturally effective methods."

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

d. <u>Inventory and Inspections of Industrial/Commercial Sources</u>:

(i) Permit Part VI.D.6.b. requires the City to track nurseries and nursery centers and to include various information for each facility on the inventory, including the industrial classification code, the status of exposure of materials to stormwater, the name of the receiving water, whether the facility is tributary to a waterbody listed as impaired under CWA section 303(d) where the facility generates pollutants for which the waterbody is impaired, and whether the facility has filed a "No Exposure Certification" ("NEC") with the State Water Resources

Control Board ("State Board"). The City is required to update the inventory at least annually, through collection of information through field activities over from other means.

(ii) Permit Part VI.D.6.d. requires the City to inspect restaurants, automotive service facilities, retail gasoline outlets and nurseries and nursery centers twice during the Permit term, including an inspection within two years after the Permit's effective date. In such inspection, the the City is required, among other things, to evaluate whether the source is implementing effective source control BMPs for each corresponding activity and to require implementation of additional BMPs where stormwater from the facility discharged to the MS4 discharges to a Significant Ecological Area ("SEA"), a water body subject to TMDL provisions or a CWA section 303(d) listed waterbody.

(iii) Permit Part VI.D.6.e. requires the City to inspect industrial facilities, including those identified in 40 C.F.R. section 122.26(b)(14)(i-xi) and facilities identified in 40 C.F.R. section 122.26(d)(12)(iv)(C). In such inspections, the City is required to confirm that each facility has a current Waste Discharge Identification number for coverage under the State Board-issued General Industrial Activities Stormwater Permit or has applied for and received a no exposure certification, and to require implementation of additional BMPs where stormwater from the MS4 discharges to a waterbody suhject to a TMDL or is a CWA section 303(d) listed impaired waterbodies. Additionally, for facilities discharging to MS4s that discharge to an SEA, the permittees, including the City, are required to require operators to implement additional pollutant-specific controls to reduce pollutants that are causing or contributing to exceedances of water quality standards.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

e. **Post-Construction BMP Requirements**:

(i) Permit Part VI.D.7.d.(iv)(1)(a) requires the City to implement a GIS or other electronic system for tracking projects that are required to have post-construction BMPs, including project identification, acreage, BMP type and description, BMP locations, dates of acceptance and maintenance agreements, inspection dates and summaries and corrective action.

(ii) Permit Part VI.D.7.d.(iv)(1)(b) requires the City to inspect all development sites upon completion of construction and before issuance of an occupancy certificate to ensure "proper installation" of Low Impact Development ("LID") measures, structural BMPs, treatment control BMPs and hydromodification control BMPs.

(iii) Permit Part VI.D.7.d.(iv)(1)(c) requires the City to develop a post-construction BMP checklist and to inspect at an interval of at least once every two years, City-operated post-construction BMPs to assess operations condition.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

f. Construction Site Requirements:

(i) Permit Part VI.D.8.g.(i) requires the City to develop an electronic system to inventory grading, encroachment, demolition, building or construction permits (or other municipal authorizations to move soil and/or construct or destruct that involves land disturbance).

(ii) Permit Part VI.D.8.g.(ii) requires the City to complete and update an inventory containing, among other items, contact information for a project, basic site information, the proximity of all water bodies, significant threats to water quality status, current construction phase where feasible, required inspection frequency, start and anticipated completion dates, whether the project has submitted a Notice of Intent to be covered under the State Board-issued General Construction Activities Stormwater Permit ("GCASP"), whether it has obtained GCASP coverage, the date the Erosion and Sediment Control Plan ("ESCP") was approved and post-construction structural BMPs subject to operation and maintenance requirements.

(iii) Permit Part VI.D.8.h requires the City to develop and implement review procedures for construction plan documents, inkling preparation and submittal of an appropriate ESCP, verification of GCASP or other permit coverage and other items. The Part further requires permittees, including the City, to develop and implement a checklist to conduct and document the review of each ESCP.

(iv) Permit Part VI.D.8.i.(i) requires the City to develop and implement technical standards for the selection, installation and maintenance of construction BMPs for all such sites within the City.

(v) Permit Part VI.D.8.i.(ii) requires that such BMPs be tailored to the risks posed by the project, as well as in minimum conformance with standards set forth in Permit Table 15, use of

BMPs meeting the requirements of Permit Tables 14 and 16 for constructions sites equal or greater than one acre or paving projects, detailed installation designs and cut sheets for use in ESCPs and maintenance expectations for each BMP or category of BMPs.

(vi) Permit PartVI.D.8.i.(iv) further requires that such technical standards must be "readily available" to the development community and must be "clearly referenced" within the City's stormwater or development services website, ordinance, permit approval process and/or ESCP review forms.

(vii) Permit Part VI.D.8.i.(v) requires local BMP technical standards to cover all items set forth in Tables 13, 14, 15 and 16 of the Permit.

(viii) Permit Part VI.D.8.j requires the City to inspect all construction sites of one acre or greater in size on the frequencies set forth in the Permit, which requires inspections prior to land disturbance activities, during active construction and at the conclusion of the project and as a condition to approving and/or issuing a Certificate of Occupancy. The frequency of inspections is set in addition in Table 17 of the Permit. As part of the inspection obligations, the permittees, including the City, must develop, implement and revise as necessary standard operating procedures that identify the inspection procedures to be followed by each permittee. Additionally, during inspections, the City must verify "active coverage" under the GCASP for specified projects; review the ESCP; inspect the site to determine whether all BMPs have been selected, installed, implemented and maintained; assess the appropriateness of planned and installed BMPs, and their effectiveness; visually observe and record non-stormwater discharge, potential illicit discharges and connections and potential discharge of pollutants in stormwater runoff; develop a written or electronic inspection report generated from a field inspection

checklist; and track the number of inspections for the site to ensure that it meets the minimum requirements of Permit Table 17.

(ix) Permit Part VI.D.8.1.(i-ii) requires the City to ensure training for "all staff whose primary job duties are related to implementing the construction storm water program," including plan reviewers and permitting staff with regard to the "technical review of local erosion and sediment control ordinance, local BMP technical standards, ESCP requirements, and the key objectives of the State Water Board QSD program, erosion sediment control/storm water inspectors in inspection procedures consistent with various standards. Additionally, if outside parties conduct inspections or review plans, the City is required to ensure that such staff are trained under the same requirements.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

g. <u>Public Agency Requirements</u>:

(i) Permit Part VI.D.9.c. requires the City to maintain an "updated inventory" of all permittee-owned or operated facilities that are potential sources of stormwater pollution, including 24 separate categories of facilities that are required to be in the inventory. The inventory must include the name and address of the facility, contact information, a narrative description of activities performed and potential pollution sources, coverage under any individual or general NPDES permits or waivers. The inventory must be updated at least once during the

five-year term of the Permit with information collected through field activities or other means.

(ii) Permit Part VI.D.9.d.(i) requires the City to develop an inventory of "retrofitting opportunities" in areas of existing development.

(iii) Permit Part VI.D.9.d.(ii-iii) requires the City to screen existing areas of development "to identify candidate areas for retrofitting using watershed models or other screening level tools" and then evaluate and rank areas of existing development to prioritize retrofitting candidates.

(iv) Permit Part VI.D.9.d.(iv) requires the City to consider the results of the evaluation by giving "highly feasible" projects a "high priority" to implement source control and treatment control BMPs in the their Storm Water Management Plan ("SWMP") and consider high priority retrofit projects as candidates for off-site mitigation for new development and redevelopment projects.

(v) Permit Part VI.D.9.d.(v) requires the City to cooperate with private landowners to "encourage site specific retrofitting projects." In such cooperation, demonstration retrofit projects, retrofits on public lands and easements, education and outreach, subsidies for retrofit projects, requiring retrofit projects as enforcement, mitigation or ordinance compliance, public and private partnerships, fees for existing discharges to the MS4 and reduction of such fees for retrofit implementation must be considered.

(vi) Permit Part VI.D.9.g.(ii) requires the City to implement an Integrated Pest Management ("IPM") program, including restrictions on the use of pesticides, restricting treatments only to remove the target organism, selection of pest controls that minimize risks to human health, "beneficial non-target organisms" and the environment, partnering with other

agencies and organizations to "encourage" the use of IPM and adopt and "verifiably implement" policies, procedures and/or ordinances requiring the minimization of pesticide use and encouraging the use of IPM techniques for public agency facilities and activities. Additionally, the City must commit and schedule to reduce the use of pesticides that cause impairments of surface waters by preparing and updating annually an inventory of pesticides, quantify pesticide use by staff and contractors and demonstrate implementation of IPM alternatives where feasible to reduce pesticide use.

(vii) Permit Part VI.D.9.h.(vii) requires permittees in areas not subject to a Trash TMDL, to install trash excluders, or equivalent devices, on or in catch basins or outfalls, except where such installation would cause flooding, unless lack of maintenance that causes the flooding. Permittees, including the City, may also employ alternative or enhanced BMPs that "provide substantially equivalent removal of trash." If alternative means are employed, the City must demonstrate that such BMPs "provide equivalent trash removal performance as excluders."

(viii) Permit Part VI.D.9.k.(ii) requires the City to train all employees and contractors "who use or have the potential to use pesticides or fertilizers" that address the potential for pesticide-related surface water toxicity, in the proper use, handling, and disposal of pesticides, least toxic methods of pest prevention and control, including IPM and the reduction of pesticide use.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years

during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

h. Illicit Connection and Discharge Requirements:

(i) Permit Part VI.D.10.d.(iii) requires the City to "ensure that signage adjacent to open channels . . . include information regarding dumping prohibitions and public reporting of illicit discharges."

(ii) Permit Part VI.D.10.d.(iv) requires the City to develop and maintain written procedures that document how complaint calls are received, documented and tracked "to ensure that all complaints are adequately addressed." Such procedures must be "evaluated to determine whether changes or updates are needed to ensure that the procedures adequately document the methods employed by the Permittee."

(iii) Permit Part VI.D.10.d.(v) the City to maintain documentation of complaint calls and to record the location of the reported spill or illicit discharge and the action undertaken in response.

(iv) Permit Part VI.D.10.e.(i) requires, in pertinent part, that the City implement a "spill response plan" for all sewage and other spills that may discharge into its MS4.

(v) Permit Part VI.D.10.e.(i)(1) requires that the plan must identify agencies responsible for spill response and cleanup, phone numbers and e-mail addresses for contacts and shall further address coordination with spill response teams "throughout all appropriate departments, programs and agencies so that maximum water quality protection is provided."

(vi) Part VI.D.10.e.(i)(3-4) require the City to respond to spills for containment within four hours of become aware of the spill, or if on private property, within two hours of gaining

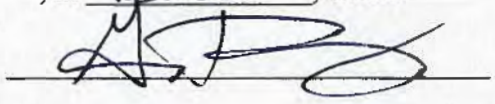
legal access to the property and reporting of spills that may endanger health or the environment to appropriate public health agencies and the Office of Emergency Services ("OES").

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 27 day of June, 2014, at Agoura Hills, California.



DECLARATION OF JEFFREY L. STEWART

CITY OF BELLFLOWER

I, Jeffrey L. Stewart, hereby declare and state as follows:

1. I am City Manager for the City of Bellflower ("City"). In that capacity, I share responsibility for the compliance of the City with regard to the requirements of California Regional Water Quality Control Board, Los Angeles Region ("LARWQCB") Order No. R4-2012-0175 ("the Permit") as they apply to the City.

2. I have reviewed sections of the Permit and its attachments as set forth herein and am familiar with those provisions. I am also familiar with how the Permit changed requirements that were previously imposed on the City by the prior permit that had issued to the City by the LARWQCB in 2001 ("2001 Permit").

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

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

5. In Section 5 and Section 7 of this Test Claim, which contains exhibits to the test claim filed by the City and other permittees under the Permit, the specific sections of the Permit at issue in the test claim have been set forth. I hereby incorporate such provisions of Sections 5 and 7 into this declaration as though fully set forth herein.

6. The City has elected to participate in a Watershed Management Plan or Enhanced Watershed Management Plan ("WMP/EWMP") that will be designed to address, in whole or in

part, the "Total Maximum Daily Load (TMDL")" provisions of the Permit as well other requirements of the Permit, including those set forth in this Declaration.

7. Based on my understanding of the Permit, I believe that the Permit requires the City to undertake the following programs either directly or through the mechanism of a WMP/EWMP, which represent new programs and/or higher levels of service or the shifting of state responsibilities to the City, which activities were not required by the 2001 Permit and which are unique to local government entities:

a. Implementation of TMDLs:

(i) Part VI.E.1.c. requires the permittees to "comply with the applicable water quality-based effluent limitations and/or receiving water limitations contained in Attachments L through R, consistent with the assumptions and requirements of the WLAs established in the TMDLs, including implementation plans and schedules, where provided for in the State adoption and approval of the TMDL (40 CFR 122.44(d)(1)(vii)(B); Cal. Wat. Code § 13263(a))."

(ii) Attachment K to the Permit sets forth the TMDLs with which the City must comply.

(iii) Attachments L through R of the Permit set forth the requirements of each TMDL and its "waste load allocations " with which the City must comply.

(iv) Part VI.B of the Permit requires the City "to comply with the [Monitoring and Reporting Program] and future revisions thereto, in Attachment E of this Order or may, in coordination with an approved Watershed Management Program per Part VI.C, implement a customized monitoring program that achieves the five Primary Objectives set forth in Part II.A of Attachment E and includes the elements set forth in Part II.E of Attachment E."

(v) Attachment E to the Permit requires the monitoring program to include monitoring at "TMDL receiving water compliance points" and other "TMDL monitoring requirements specified in approved TMDL Monitoring Plans." (Permit, Attachment E, Parts II.E.1 through 3 and Part V; *see also* Attachment E. Parts VI.A.1.b.(iii) and (iv), VI.B.2, VI.C.1.a, VI.D.1.a, VIII.B.1.b.(ii), IX.A.5, IX.C.1.a, IX.E.1.a and b, IX.G.1.b., and IX.G.2.)

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

b. <u>Requirements related to Discharge Prohibitions for Non-Stormwater</u>:

(i) Permit Part III.A.1 prohibits certain non-stormwater discharges through the municipal separate storm sewer system ("MS4") to receiving waters. I have been advised that this requirement exceeds the requirements of the Clean Water Act ("CWA").

(ii) Part III.A.2 requires the City to employ best management practices ("BMPs") for discharges from essential non-emergency firefighting activities and, with regard to unpermitted discharges by drinking water suppliers, to work with those suppliers on the conditions of their discharges.

(iii) Part III.A.4.a requires the City to develop and implement procedures covering non-permitted discharges of non-stormwater to the City's MS4 in compliance with the requirements of Part III.A.4.a.(i-vi) of the Permit.

(iv) Part III.A.4.b. requires the City to develop and implement procedures to minimize the discharge of landscape irrigation water into the MS4, including to coordinate with local water purveyors to promote water use efficiency, use of drought tolerant vegetation and use of less toxic options for pest control and landscape management and to develop and implement an outreach and education program to minimize the discharge of irrigation water and associated pollutants.

(v) Part III.A.4.c. requires the City to evaluate monitoring data collected pursuant to the Permit's Monitoring and Reporting Program (Permit Attachment E) and other associated data and information to determine, among other things, if authorized or conditionally authorized non-stormwater discharges are a source of pollutants that may be causing or contributing to an exceedance of receiving water limitations and/or water quality based effluent limitations.

(vi) Part III.A.4.d. requires the City to take action to address such non-stormwater discharges if they are found to be such a source of pollutants, through effective prohibition, conditions, diversions or treatment. These tasks involve, among other things, meeting with non-stormwater dischargers, identifying and analyzing the nature of non-stormwater discharges, the development and implementation of discharge procedures, conducting public education efforts and evaluating monitoring data.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

c. Public Information Program Requirements:

(i) Permit Part VI.D.5.a. requires the City to "measurably increase" the knowledge of target audiences about the MS4, the adverse impacts of stormwater pollution on receiving waters and potential solutions to mitigate impacts, to "measurably change" waste disposal and stormwater pollution generation behavior by developing and encouraging implementation of "appropriate alternatives" and to "involve and engage a diversity of socio-economic groups and ethnic communities" to participate in stormwater pollution impact mitigation.

(ii) Permit Part VI.D.5.b. the City to implement Public Information and Participation Program activities by participating in either a County-wide, Watershed Group-sponsored or individual effort.

(iii) Permit Part VI.D.5.c. requires the City to provide a means for public reporting of clogged catch basin inlets and illicit discharges/dumping, faded or missing catch basin labels and general stormwater and non-stormwater pollution prevention information through a telephone hotline or in public information or government pages of the telephone book, identify staff or departments serving as contact persons and providing current, updated hotline information. The City is also required to organize events targeted to residents and population subgroups to "educate and involve the community in storm water and non-storm water pollution prevent and clean-up (e.g., education seminars, clean-ups, and community catch basin stenciling)."

(iv) Permit Part VI.D.5.d. requires the City to conduct stormwater pollution prevention public service announcements and advertising campaigns and provide public education materials on the proper handling of vehicle waste fluids, house, and construction waste, pesticides and fertilizers (including the use of integrated pest management practices), green waste and animal

wastes. This Part further requires the City (a) to distribute public education materials at automotive parts stores, home improvement centers, lumber yards and hardware and paint stores, landscaping and gardening centers and pet shops and feed stores, and (b) to maintain stormwater websites or provide links to stormwater websites via the City's website, which must include educational material and opportunities for public participation in stormwater pollution and cleanup activities and provide schools within the City's jurisdiction with materials to education K-12 students on stormwater pollution. In each of these requirements, Permit Part VID.5.d. requires the City to "use effective strategies to educate and involve ethnic communities in storm water pollution prevention through culturally effective methods."

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

d. <u>Inventory and Inspections of Industrial/Commercial Sources</u>:

(i) Permit Part VI.D.6.b. requires the City to track nurseries and nursery centers and to include various information for each facility on the inventory, including the industrial classification code, the status of exposure of materials to stormwater, the name of the receiving water, whether the facility is tributary to a waterbody listed as impaired under CWA section 303(d) where the facility generates pollutants for which the waterbody is impaired, and whether the facility has filed a "No Exposure Certification" ("NEC") with the State Water Resources

Control Board ("State Board"). The City is required to update the inventory at least annually, through collection of information through field activities over from other means.

(ii) Permit Part VI.D.6.d. requires the City to inspect restaurants, automotive service facilities, retail gasoline outlets and nurseries and nursery centers twice during the Permit term, including an inspection within two years after the Permit's effective date. In such inspection, the City is required, among other things, to evaluate whether the source is implementing effective source control BMPs for each corresponding activity and to require implementation of additional BMPs where stormwater from the facility discharged to the MS4 discharges to a Significant Ecological Area ("SEA"), a water body subject to TMDL provisions or a CWA section 303(d) listed waterbody.

(iii) Permit Part VI.D.6.e. requires the City to inspect industrial facilities, including those identified in 40 C.F.R. section 122.26(b)(14)(i-xi) and facilities identified in 40 C.F.R. section 122.26(d)(12)(iv)(C). In such inspections, the City is required to confirm that each facility has a current Waste Discharge Identification number for coverage under the State Board-issued General Industrial Activities Stormwater Permit or has applied for and received a no exposure certification, and to require implementation of additional BMPs where stormwater from the MS4 discharges to a waterbody subject to a TMDL or is a CWA section 303(d) listed impaired waterbodies. Additionally, for facilities discharging to MS4s that discharge to an SEA, the permittees, including the City, are required to require operators to implement additional pollutant-specific controls to reduce pollutants that are causing or contributing to exceedances of water quality standards.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

e. Post-Construction BMP Requirements:

(i) Permit Part VI.D.7.d.(iv)(1)(a) requires the City to implement a GIS or other electronic system for tracking projects that are required to have post-construction BMPs, including project identification, acreage, BMP type and description, BMP locations, dates of acceptance and maintenance agreements, inspection dates and summaries and corrective action.

(ii) Permit Part VI.D.7.d.(iv)(1)(b) requires the City to inspect all development sites upon completion of construction and before issuance of an occupancy certificate to ensure "proper installation" of Low Impact Development ("LID") measures, structural BMPs, treatment control BMPs and hydromodification control BMPs.

(iii) Permit Part VI.D.7.d.(iv)(1)(c) requires the City to develop a post-construction BMP checklist and to inspect at an interval of at least once every two years, City-operated post-construction BMPs to assess operations condition.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

f. Construction Site Requirements:

(i) Permit Part VI.D.8.g.(i) requires the City to develop an electronic system to inventory grading, encroachment, demolition, building or construction permits (or other municipal authorizations to move soil and/or construct or destruct that involves land disturbance).

(ii) Permit Part VI.D.8.g.(ii) requires the City to complete and update an inventory containing, among other items, contact information for a project, basic site information, the proximity of all water bodies, significant threats to water quality status, current construction phase where feasible, required inspection frequency, start and anticipated completion dates, whether the project has submitted a Notice of Intent to be covered under the State Board-issued General Construction Activities Stormwater Permit ("GCASP"), whether it has obtained GCASP coverage, the date the Erosion and Sediment Control Plan ("ESCP") was approved and post-construction structural BMPs subject to operation and maintenance requirements.

(iii) Permit Part VI.D.8.h requires the City to develop and implement review procedures for construction plan documents, inkling preparation and submittal of an appropriate ESCP, verification of GCASP or other permit coverage and other items. The Part further requires permittees, including the City, to develop and implement a checklist to conduct and document the review of each ESCP.

(iv) Permit Part VI.D.8.i.(i) requires the City to develop and implement technical standards for the selection, installation and maintenance of construction BMPs for all such sites within the City.

(v) Permit Part VI.D.8.i.(ii) requires that such BMPs be tailored to the risks posed by the project, as well as in minimum conformance with standards set forth in Permit Table 15, use of

BMPs meeting the requirements of Permit Tables 14 and 16 for constructions sites equal or greater than one acre or paving projects, detailed installation designs and cut sheets for use in ESCPs and maintenance expectations for each BMP or category of BMPs.

(vi) Permit PartVI.D.8.i.(iv) further requires that such technical standards must be "readily available" to the development community and must be "clearly referenced" within the City's stormwater or development services website, ordinance, permit approval process and/or ESCP review forms.

(vii) Permit Part VI.D.8.i.(v) requires local BMP technical standards to cover all items set forth in Tables 13, 14, 15 and 16 of the Permit.

(viii) Permit Part VI.D.8.j requires the City to inspect all construction sites of one acre or greater in size on the frequencies set forth in the Permit, which requires inspections prior to land disturbance activities, during active construction and at the conclusion of the project and as a condition to approving and/or issuing a Certificate of Occupancy. The frequency of inspections is set in addition in Table 17 of the Permit. As part of the inspection obligations, the permittees, including the City, must develop, implement and revise as necessary standard operating procedures that identify the inspection procedures to be followed by each permittee. Additionally, during inspections, the City must verify "active coverage" under the GCASP for specified projects; review the ESCP; inspect the site to determine whether all BMPs have been selected, installed, implemented and maintained; assess the appropriateness of planned and installed BMPs, and their effectiveness; visually observe and record non-stormwater discharge, potential illicit discharges and connections and potential discharge of pollutants in stormwater runoff; develop a written or electronic inspection report generated from a field inspection

checklist; and track the number of inspections for the site to ensure that it meets the minimum requirements of Permit Table 17.

(ix) Permit Part VI.D.8.l.(i-ii) requires the City to ensure training for "all staff whose primary job duties are related to implementing the construction storm water program," including plan reviewers and permitting staff with regard to the "technical review of local erosion and sediment control ordinance, local BMP technical standards, ESCP requirements, and the key objectives of the State Water Board QSD program, erosion sediment control/storm water inspectors in inspection procedures consistent with various standards. Additionally, if outside parties conduct inspections or review plans, the City is required to ensure that such staff are trained under the same requirements.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

g. <u>Public Agency Requirements</u>:

(i) Permit Part VI.D.9.c. requires the City to maintain an "updated inventory" of all permittee-owned or operated facilities that are potential sources of stormwater pollution, including 24 separate categories of facilities that are required to be in the inventory. The inventory must include the name and address of the facility, contact information, a narrative description of activities performed and potential pollution sources, coverage under any individual or general NPDES permits or waivers. The inventory must be updated at least once during the

five-year term of the Permit with information collected through field activities or other means.

(ii) Permit Part VI.D.9.d.(i) requires the City to develop an inventory of "retrofitting opportunities" in areas of existing development.

(iii) Permit Part VI.D.9.d.(ii-iii) requires the City to screen existing areas of development "to identify candidate areas for retrofitting using watershed models or other screening level tools" and then evaluate and rank areas of existing development to prioritize retrofitting candidates.

(iv) Permit Part VI.D.9.d.(iv) requires the City to consider the results of the evaluation by giving "highly feasible" projects a "high priority" to implement source control and treatment control BMPs in the their Storm Water Management Plan ("SWMP") and consider high priority retrofit projects as candidates for off-site mitigation for new development and redevelopment projects.

(v) Permit Part VI.D.9.d.(v) requires the City to cooperate with private landowners to "encourage site specific retrofitting projects." In such cooperation, demonstration retrofit projects, retrofits on public lands and easements, education and outreach, subsidies for retrofit projects, requiring retrofit projects as enforcement, mitigation or ordinance compliance, public and private partnerships, fees for existing discharges to the MS4 and reduction of such fees for retrofit implementation must be considered.

(vi) Permit Part VI.D.9.g.(ii) requires the City to implement an Integrated Pest Management ("IPM") program, including restrictions on the use of pesticides, restricting treatments only to remove the target organism, selection of pest controls that minimize risks to human health, "beneficial non-target organisms" and the environment, partnering with other

agencies and organizations to "encourage" the use of IPM and adopt and "verifiably implement" policies, procedures and/or ordinances requiring the minimization of pesticide use and encouraging the use of IPM techniques for public agency facilities and activities. Additionally, the City must commit and schedule to reduce the use of pesticides that cause impairments of surface waters by preparing and updating annually an inventory of pesticides, quantify pesticide use by staff and contractors and demonstrate implementation of IPM alternatives where feasible to reduce pesticide use.

(vii) Permit Part VI.D.9.h.(vii) requires permittees in areas not subject to a Trash TMDL, to install trash excluders, or equivalent devices, on or in catch basins or outfalls, except where such installation would cause flooding, unless lack of maintenance that causes the flooding. Permittees, including the City, may also employ alternative or enhanced BMPs that "provide substantially equivalent removal of trash." If alternative means are employed, the City must demonstrate that such BMPs "provide equivalent trash removal performance as excluders."

(viii) Permit Part VI.D.9.k.(ii) requires the City to train all employees and contractors "who use or have the potential to use pesticides or fertilizers" that address the potential for pesticide-related surface water toxicity, in the proper use, handling, and disposal of pesticides, least toxic methods of pest prevention and control, including IPM and the reduction of pesticide use.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years

during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

h. Illicit Connection and Discharge Requirements:

(i) Permit Part VI.D.10.d.(iii) requires the City to "ensure that signage adjacent to open channels . . . include information regarding dumping prohibitions and public reporting of illicit discharges."

(ii) Permit Part VI.D.10.d.(iv) requires the City to develop and maintain written procedures that document how complaint calls are received, documented and tracked "to ensure that all complaints are adequately addressed." Such procedures must be "evaluated to determine whether changes or updates are needed to ensure that the procedures adequately document the methods employed by the Permittee."

(iii) Permit Part VI.D.10.d.(v) the City to maintain documentation of complaint calls and to record the location of the reported spill or illicit discharge and the action undertaken in response.

(iv) Permit Part VI.D.10.e.(i) requires, in pertinent part, that the City implement a "spill response plan" for all sewage and other spills that may discharge into its MS4.

(v) Permit Part VI.D.10.e.(i)(1) requires that the plan must identify agencies responsible for spill response and cleanup, phone numbers and e-mail addresses for contacts and shall further address coordination with spill response teams "throughout all appropriate departments, programs and agencies so that maximum water quality protection is provided."

(vi) Part VI.D.10.e.(i)(3-4) require the City to respond to spills for containment within four hours of become aware of the spill, or if on private property, within two hours of gaining

legal access to the property and reporting of spills that may endanger health or the environment to appropriate public health agencies and the Office of Emergency Services ("OES").

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this _25th_ day of June, 2014, at _Bellflower, California.

Jeffrey L. Stewart, City Manager

DECLARATION OF JEFF KOLIN

CITY OF BEVERLY HILLS

I, Jeff Kolin, hereby declare and state as follows:

1. I am City Manager for the City of Beverly Hills ("City"). In that capacity, I share responsibility for the compliance of the City with regard to the requirements of California Regional Water Quality Control Board, Los Angeles Region ("LARWQCB") Order No. R4-2012-0175 ("the Permit") as they apply to the City.

2. I have reviewed sections of the Permit and its attachments as set forth herein and am familiar with those provisions. I am also familiar with how the Permit changed requirements that were previously imposed on the City by the prior permit that had issued to the City by the LARWQCB in 2001 ("2001 Permit").

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

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

5. In Section 5 and Section 7 of this Test Claim, which contains exhibits to the test claim filed by the City and other permittees under the Permit, the specific sections of the Permit at issue in the test claim have been set forth. I hereby incorporate such provisions of Sections 5 and 7 into this declaration as though fully set forth herein.

6. The City has elected to participate in a Watershed Management Plan or Enhanced Watershed Management Plan ("WMP/EWMP") that will be designed to address, in whole or in

part, the "Total Maximum Daily Load (TMDL")" provisions of the Permit as well other requirements of the Permit, including those set forth in this Declaration.

7. Based on my understanding of the Permit, I believe that the Permit requires the City to undertake the following programs either directly or through the mechanism of a WMP/EWMP, which represent new programs and/or higher levels of service or the shifting of state responsibilities to the City, which activities were not required by the 2001 Permit and which are unique to local government entities:

a. Implementation of TMDLs:

(i) Part VI.E.1.c. requires the permittees to "comply with the applicable water quality-based effluent limitations and/or receiving water limitations contained in Attachments L through R, consistent with the assumptions and requirements of the WLAs established in the TMDLs, including implementation plans and schedules, where provided for in the State adoption and approval of the TMDL (40 CFR 122.44(d)(1)(vii)(B); Cal. Wat. Code § 13263(a))."

(ii) Attachment K to the Permit sets forth the TMDLs with which the City must comply.

(iii) Attachments L through R of the Permit set forth the requirements of each TMDL and its "waste load allocations " with which the City must comply.

(iv) Part VI.B of the Permit requires the City "to comply with the [Monitoring and Reporting Program] and future revisions thereto, in Attachment E of this Order or may, in coordination with an approved Watershed Management Program per Part VI.C, implement a customized monitoring program that achieves the five Primary Objectives set forth in Part II.A of Attachment E and includes the elements set forth in Part II.E of Attachment E."

(v) Attachment E to the Permit requires the monitoring program to include monitoring at "TMDL receiving water compliance points" and other "TMDL monitoring requirements specified in approved TMDL Monitoring Plans." (Permit, Attachment E, Parts II.E.1 through 3 and Part V; *see also* Attachment E. Parts VI.A.1.b.(iii) and (iv), VI.B.2, VI.C.1.a, VI.D.1.a, VIII.B.1.b.(ii), IX.A.5, IX.C.1.a, IX.E.1.a and b, IX.G.1.b., and IX.G.2.)

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

b. **Requirements related to Discharge Prohibitions for Non-Stormwater**:

(i) Permit Part III.A.1 prohibits certain non-stormwater discharges through the municipal separate storm sewer system ("MS4") to receiving waters. I have been advised that this requirement exceeds the requirements of the Clean Water Act ("CWA").

(ii) Part III.A.2 requires the City to employ best management practices ("BMPs") for discharges from essential non-emergency firefighting activities and, with regard to unpermitted discharges by drinking water suppliers, to work with those suppliers on the conditions of their discharges.

(iii) Part III.A.4.a requires the City to develop and implement procedures covering non-permitted discharges of non-stormwater to the City's MS4 in compliance with the requirements of Part III.A.4.a.(i-vi) of the Permit.

(iv) Part III.A.4.b. requires the City to develop and implement procedures to minimize the discharge of landscape irrigation water into the MS4, including to coordinate with local water purveyors to promote water use efficiency, use of drought tolerant vegetation and use of less toxic options for pest control and landscape management and to develop and implement an outreach and education program to minimize the discharge of irrigation water and associated pollutants.

(v) Part III.A.4.c. requires the City to evaluate monitoring data collected pursuant to the Permit's Monitoring and Reporting Program (Permit Attachment E) and other associated data and information to determine, among other things, if authorized or conditionally authorized non-stormwater discharges are a source of pollutants that may be causing or contributing to an exceedance of receiving water limitations and/or water quality based effluent limitations.

(vi) Part III.A.4.d. requires the City to take action to address such non-stormwater discharges if they are found to be such a source of pollutants, through effective prohibition, conditions, diversions or treatment. These tasks involve, among other things, meeting with non-stormwater dischargers, identifying and analyzing the nature of non-stormwater discharges, the development and implementation of discharge procedures, conducting public education efforts and evaluating monitoring data.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

c. **Public Information Program Requirements**:

(i) Permit Part VI.D.5.a. requires the City to "measurably increase" the knowledge of target audiences about the MS4, the adverse impacts of stormwater pollution on receiving waters and potential solutions to mitigate impacts, to "measurably change" waste disposal and stormwater pollution generation behavior by developing and encouraging implementation of "appropriate alternatives" and to "involve and engage a diversity of socio-economic groups and ethnic communities" to participate in stormwater pollution impact mitigation.

(ii) Permit Part VI.D.5.b. the City to implement Public Information and Participation Program activities by participating in either a County-wide, Watershed Group-sponsored or individual effort.

(iii) Permit Part VI.D.5.c. requires the City to provide a means for public reporting of clogged catch basin inlets and illicit discharges/dumping, faded or missing catch basin labels and general stormwater and non-stormwater pollution prevention information through a telephone hotline or in public information or government pages of the telephone book, identify staff or departments serving as contact persons and providing current, updated hotline information. The City is also required to organize events targeted to residents and population subgroups to "educate and involve the community in storm water and non-storm water pollution prevent and clean-up (e.g., education seminars, clean-ups, and community catch basin stenciling)."

(iv) Permit Part VI.D.5.d. requires the City to conduct stormwater pollution prevention public service announcements and advertising campaigns and provide public education materials on the proper handling of vehicle waste fluids, house, and construction waste, pesticides and fertilizers (including the use of integrated pest management practices), green waste and animal

wastes. This Part further requires the City (a) to distribute public education materials at automotive parts stores, home improvement centers, lumber yards and hardware and paint stores, landscaping and gardening centers and pet shops and feed stores, and (b) to maintain stormwater websites or provide links to stormwater websites via the City's website, which must include educational material and opportunities for public participation in stormwater pollution and cleanup activities and provide schools within the City's jurisdiction with materials to education K-12 students on stormwater pollution. In each of these requirements, Permit Part VID.5.d. requires the City to "use effective strategies to educate and involve ethnic communities in storm water pollution prevention through culturally effective methods."

I am informed and believe that the City has incurred in excess of $1.000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

d. Inventory and Inspections of Industrial/Commercial Sources:

(i) Permit Part VI.D.6.b. requires the City to track nurseries and nursery centers and to include various information for each facility on the inventory, including the industrial classification code, the status of exposure of materials to stormwater, the name of the receiving water, whether the facility is tributary to a waterbody listed as impaired under CWA section 303(d) where the facility generates pollutants for which the waterbody is impaired, and whether the facility has filed a "No Exposure Certification" ("NEC") with the State Water Resources

Control Board ("State Board"). The City is required to update the inventory at least annually, through collection of information through field activities over from other means.

(ii) Permit Part VI.D.6.d. requires the City to inspect restaurants, automotive service facilities, retail gasoline outlets and nurseries and nursery centers twice during the Permit term, including an inspection within two years after the Permit's effective date. In such inspection, the the City is required, among other things, to evaluate whether the source is implementing effective source control BMPs for each corresponding activity and to require implementation of additional BMPs where stormwater from the facility discharged to the MS4 discharges to a Significant Ecological Area ("SEA"), a water body subject to TMDL provisions or a CWA section 303(d) listed waterbody.

(iii) Permit Part VI.D.6.e. requires the City to inspect industrial facilities, including those identified in 40 C.F.R. section 122.26(b)(14)(i-xi) and facilities identified in 40 C.F.R. section 122.26(d)(12)(iv)(C). In such inspections, the City is required to confirm that each facility has a current Waste Discharge Identification number for coverage under the State Board-issued General Industrial Activities Stormwater Permit or has applied for and received a no exposure certification, and to require implementation of additional BMPs where stormwater from the MS4 discharges to a waterbody subject to a TMDL or is a CWA section 303(d) listed impaired waterbodies. Additionally, for facilities discharging to MS4s that discharge to an SEA, the permittees, including the City, are required to require operators to implement additional pollutant-specific controls to reduce pollutants that are causing or contributing to exceedances of water quality standards.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

e. Post-Construction BMP Requirements:

(i) Permit Part VI.D.7.d.(iv)(1)(a) requires the City to implement a GIS or other electronic system for tracking projects that are required to have post-construction BMPs, including project identification, acreage, BMP type and description, BMP locations, dates of acceptance and maintenance agreements, inspection dates and summaries and corrective action.

(ii) Permit Part VI.D.7.d.(iv)(1)(b) requires the City to inspect all development sites upon completion of construction and before issuance of an occupancy certificate to ensure "proper installation" of Low Impact Development ("LID") measures, structural BMPs, treatment control BMPs and hydromodification control BMPs.

(iii) Permit Part VI.D.7.d.(iv)(1)(c) requires the City to develop a post-construction BMP checklist and to inspect at an interval of at least once every two years, City-operated post-construction BMPs to assess operations condition.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

f. Construction Site Requirements:

(i) Permit Part VI.D.8.g.(i) requires the City to develop an electronic system to inventory grading, encroachment, demolition, building or construction permits (or other municipal authorizations to move soil and/or construct or destruct that involves land disturbance).

(ii) Permit Part VI.D.8.g.(ii) requires the City to complete and update an inventory containing, among other items, contact information for a project, basic site information, the proximity of all water bodies, significant threats to water quality status, current construction phase where feasible, required inspection frequency, start and anticipated completion dates, whether the project has submitted a Notice of Intent to be covered under the State Board-issued General Construction Activities Stormwater Permit ("GCASP"), whether it has obtained GCASP coverage, the date the Erosion and Sediment Control Plan ("ESCP") was approved and post-construction structural BMPs subject to operation and maintenance requirements.

(iii) Permit Part VI.D.8.h requires the City to develop and implement review procedures for construction plan documents, inkling preparation and submittal of an appropriate ESCP, verification of GCASP or other permit coverage and other items. The Part further requires permittees, including the City, to develop and implement a checklist to conduct and document the review of each ESCP.

(iv) Permit Part VI.D.8.i.(i) requires the City to develop and implement technical standards for the selection, installation and maintenance of construction BMPs for all such sites within the City.

(v) Permit Part VI.D.8.i.(ii) requires that such BMPs be tailored to the risks posed by the project, as well as in minimum conformance with standards set forth in Permit Table 15, use of

BMPs meeting the requirements of Permit Tables 14 and 16 for constructions sites equal or greater than one acre or paving projects, detailed installation designs and cut sheets for use in ESCPs and maintenance expectations for each BMP or category of BMPs.

(vi) Permit PartVI.D.8.i.(iv) further requires that such technical standards must be "readily available" to the development community and must be "clearly referenced" within the City's stormwater or development services website, ordinance, permit approval process and/or ESCP review forms.

(vii) Permit Part VI.D.8.i.(v) requires local BMP technical standards to cover all items set forth in Tables 13, 14, 15 and 16 of the Permit.

(viii) Permit Part VI.D.8.j requires the City to inspect all construction sites of one acre or greater in size on the frequencies set forth in the Permit, which requires inspections prior to land disturbance activities, during active construction and at the conclusion of the project and as a condition to approving and/or issuing a Certificate of Occupancy. The frequency of inspections is set in addition in Table 17 of the Permit. As part of the inspection obligations, the permittees, including the City, must develop, implement and revise as necessary standard operating procedures that identify the inspection procedures to be followed by each permittee. Additionally, during inspections, the City must verify "active coverage" under the GCASP for specified projects; review the ESCP; inspect the site to determine whether all BMPs have been selected, installed, implemented and maintained; assess the appropriateness of planned and installed BMPs, and their effectiveness; visually observe and record non-stormwater discharge, potential illicit discharges and connections and potential discharge of pollutants in stormwater runoff; develop a written or electronic inspection report generated from a field inspection

checklist; and track the number of inspections for the site to ensure that it meets the minimum requirements of Permit Table 17.

(ix) Permit Part VI.D.8.l.(i-ii) requires the City to ensure training for "all staff whose primary job duties are related to implementing the construction storm water program," including plan reviewers and permitting staff with regard to the "technical review of local erosion and sediment control ordinance, local BMP technical standards, ESCP requirements, and the key objectives of the State Water Board QSD program, erosion sediment control/storm water inspectors in inspection procedures consistent with various standards. Additionally, if outside parties conduct inspections or review plans, the City is required to ensure that such staff are trained under the same requirements.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

g. Public Agency Requirements:

(i) Permit Part VI.D.9.c. requires the City to maintain an "updated inventory" of all permittee-owned or operated facilities that are potential sources of stormwater pollution, including 24 separate categories of facilities that are required to be in the inventory. The inventory must include the name and address of the facility, contact information, a narrative description of activities performed and potential pollution sources, coverage under any individual or general NPDES permits or waivers. The inventory must be updated at least once during the

five-year term of the Permit with information collected through field activities or other means.

(ii) Permit Part VI.D.9.d.(i) requires the City to develop an inventory of "retrofitting opportunities" in areas of existing development.

(iii) Permit Part VI.D.9.d.(ii-iii) requires the City to screen existing areas of development "to identify candidate areas for retrofitting using watershed models or other screening level tools" and then evaluate and rank areas of existing development to prioritize retrofitting candidates.

(iv) Permit Part VI.D.9.d.(iv) requires the City to consider the results of the evaluation by giving "highly feasible" projects a "high priority" to implement source control and treatment control BMPs in the their Storm Water Management Plan ("SWMP") and consider high priority retrofit projects as candidates for off-site mitigation for new development and redevelopment projects.

(v) Permit Part VI.D.9.d.(v) requires the City to cooperate with private landowners to "encourage site specific retrofitting projects." In such cooperation, demonstration retrofit projects, retrofits on public lands and easements, education and outreach, subsidies for retrofit projects, requiring retrofit projects as enforcement, mitigation or ordinance compliance, public and private partnerships, fees for existing discharges to the MS4 and reduction of such fees for retrofit implementation must be considered.

(vi) Permit Part VI.D.9.g.(ii) requires the City to implement an Integrated Pest Management ("IPM") program, including restrictions on the use of pesticides, restricting treatments only to remove the target organism, selection of pest controls that minimize risks to human health, "beneficial non-target organisms" and the environment, partnering with other

agencies and organizations to "encourage" the use of IPM and adopt and "verifiably implement" policies, procedures and/or ordinances requiring the minimization of pesticide use and encouraging the use of IPM techniques for public agency facilities and activities. Additionally, the City must commit and schedule to reduce the use of pesticides that cause impairments of surface waters by preparing and updating annually an inventory of pesticides, quantify pesticide use by staff and contractors and demonstrate implementation of IPM alternatives where feasible to reduce pesticide use.

(vii) Permit Part VI.D.9.h.(vii) requires permittees in areas not subject to a Trash TMDL, to install trash excluders, or equivalent devices, on or in catch basins or outfalls, except where such installation would cause flooding, unless lack of maintenance that causes the flooding. Permittees, including the City, may also employ alternative or enhanced BMPs that "provide substantially equivalent removal of trash." If alternative means are employed, the City must demonstrate that such BMPs "provide equivalent trash removal performance as excluders."

(viii) Permit Part VI.D.9.k.(ii) requires the City to train all employees and contractors "who use or have the potential to use pesticides or fertilizers" that address the potential for pesticide-related surface water toxicity, in the proper use, handling, and disposal of pesticides, least toxic methods of pest prevention and control, including IPM and the reduction of pesticide use.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years

during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

h. Illicit Connection and Discharge Requirements:

(i) Permit Part VI.D.10.d.(iii) requires the City to "ensure that signage adjacent to open channels . . . include information regarding dumping prohibitions and public reporting of illicit discharges."

(ii) Permit Part VI.D.10.d.(iv) requires the City to develop and maintain written procedures that document how complaint calls are received, documented and tracked "to ensure that all complaints are adequately addressed." Such procedures must be "evaluated to determine whether changes or updates are needed to ensure that the procedures adequately document the methods employed by the Permittee."

(iii) Permit Part VI.D.10.d.(v) the City to maintain documentation of complaint calls and to record the location of the reported spill or illicit discharge and the action undertaken in response.

(iv) Permit Part VI.D.10.e.(i) requires, in pertinent part, that the City implement a "spill response plan" for all sewage and other spills that may discharge into its MS4.

(v) Permit Part VI.D.10.e.(i)(1) requires that the plan must identify agencies responsible for spill response and cleanup, phone numbers and e-mail addresses for contacts and shall further address coordination with spill response teams "throughout all appropriate departments, programs and agencies so that maximum water quality protection is provided."

(vi) Part VI.D.10.e.(i)(3-4) require the City to respond to spills for containment within four hours of become aware of the spill, or if on private property, within two hours of gaining

legal access to the property and reporting of spills that may endanger health or the environment to appropriate public health agencies and the Office of Emergency Services ("OES").

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 24 day of June, 2014, at Beverly Hills, California.

DECLARATION OF JULIO GONZALEZ

CITY OF CARSON

I, Julio Gonzalez, hereby declare and state as follows:

1. I am the Acting Water Program Manager for the City of Carson ("City"). In that capacity, I share responsibility for the compliance of the City with regard to the requirements of California Regional Water Quality Control Board, Los Angeles Region ("LARWQCB") Order No. R4-2012-0175 ("the Permit") as they apply to the City.

2. I have reviewed sections of the Permit and its attachments as set forth herein and am familiar with those provisions. I am also familiar with how the Permit changed requirements that were previously imposed on the City by the prior permit that had issued to the City by the LARWQCB in 2001 ("2001 Permit").

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

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

5. In Section 5 and Section 7 of this Test Claim, which contains exhibits to the test claim filed by the City and other permittees under the Permit, the specific sections of the Permit at issue in the test claim have been set forth. I hereby incorporate such provisions of Sections 5 and 7 into this declaration as though fully set forth herein.

6. The City has elected to participate in a Watershed Management Plan or Enhanced Watershed Management Plan ("WMP/EWMP") that will be designed to address, in whole or in

part, the "Total Maximum Daily Load (TMDL")" provisions of the Permit as well other requirements of the Permit, including those set forth in this Declaration.

7. Based on my understanding of the Permit, I believe that the Permit requires the City to undertake the following programs either directly or through the mechanism of a WMP/EWMP, which represent new programs and/or higher levels of service or the shifting of state responsibilities to the City, which activities were not required by the 2001 Permit and which are unique to local government entities:

a. Implementation of TMDLs:

(i) Part VI.E.1.c. requires the permittees to "comply with the applicable water quality-based effluent limitations and/or receiving water limitations contained in Attachments L through R, consistent with the assumptions and requirements of the WLAs established in the TMDLs, including implementation plans and schedules, where provided for in the State adoption and approval of the TMDL (40 CFR 122.44(d)(1)(vii)(B); Cal. Wat. Code § 13263(a))."

(ii) Attachment K to the Permit sets forth the TMDLs with which the City must comply.

(iii) Attachments L through R of the Permit set forth the requirements of each TMDL and its "waste load allocations " with which the City must comply.

(iv) Part VI.B of the Permit requires the City "to comply with the [Monitoring and Reporting Program] and future revisions thereto, in Attachment E of this Order or may, in coordination with an approved Watershed Management Program per Part VI.C, implement a customized monitoring program that achieves the five Primary Objectives set forth in Part II.A of Attachment E and includes the elements set forth in Part II.E of Attachment E."

(v) Attachment E to the Permit requires the monitoring program to include monitoring at "TMDL receiving water compliance points" and other "TMDL monitoring requirements specified in approved TMDL Monitoring Plans." (Permit, Attachment E, Parts II.E.1 through 3 and Part V; *see also* Attachment E. Parts VI.A.1.b.(iii) and (iv), VI.B.2, VI.C.1.a, VI.D.1.a, VIII.B.1.b.(ii), IX.A.5, IX.C.1.a, IX.E.1.a and b, IX.G.1.b., and IX.G.2.)

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

b. <u>Requirements related to Discharge Prohibitions for Non-Stormwater</u>:

(i) Permit Part III.A.1 prohibits certain non-stormwater discharges through the municipal separate storm sewer system ("MS4") to receiving waters. I have been advised that this requirement exceeds the requirements of the Clean Water Act ("CWA").

(ii) Part III.A.2 requires the City to employ best management practices ("BMPs") for discharges from essential non-emergency firefighting activities and, with regard to unpermitted discharges by drinking water suppliers, to work with those suppliers on the conditions of their discharges.

(iii) Part III.A.4.a requires the City to develop and implement procedures covering non-permitted discharges of non-stormwater to the City's MS4 in compliance with the requirements of Part III.A.4.a.(i-vi) of the Permit.

(iv) Part III.A.4.b. requires the City to develop and implement procedures to minimize the discharge of landscape irrigation water into the MS4, including to coordinate with local water purveyors to promote water use efficiency, use of drought tolerant vegetation and use of less toxic options for pest control and landscape management and to develop and implement an outreach and education program to minimize the discharge of irrigation water and associated pollutants.

(v) Part III.A.4.c. requires the City to evaluate monitoring data collected pursuant to the Permit's Monitoring and Reporting Program (Permit Attachment E) and other associated data and information to determine, among other things, if authorized or conditionally authorized non-stormwater discharges are a source of pollutants that may be causing or contributing to an exceedance of receiving water limitations and/or water quality based effluent limitations.

(vi) Part III.A.4.d. requires the City to take action to address such non-stormwater discharges if they are found to be such a source of pollutants, through effective prohibition, conditions, diversions or treatment. These tasks involve, among other things, meeting with non-stormwater dischargers, identifying and analyzing the nature of non-stormwater discharges, the development and implementation of discharge procedures, conducting public education efforts and evaluating monitoring data.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

c. Public Information Program Requirements:

(i) Permit Part VI.D.5.a. requires the City to "measurably increase" the knowledge of target audiences about the MS4, the adverse impacts of stormwater pollution on receiving waters and potential solutions to mitigate impacts, to "measurably change" waste disposal and stormwater pollution generation behavior by developing and encouraging implementation of "appropriate alternatives" and to "involve and engage a diversity of socio-economic groups and ethnic communities" to participate in stormwater pollution impact mitigation.

(ii) Permit Part VI.D.5.b. the City to implement Public Information and Participation Program activities by participating in either a County-wide, Watershed Group-sponsored or individual effort.

(iii) Permit Part VI.D.5.c. requires the City to provide a means for public reporting of clogged catch basin inlets and illicit discharges/dumping, faded or missing catch basin labels and general stormwater and non-stormwater pollution prevention information through a telephone hotline or in public information or government pages of the telephone book, identify staff or departments serving as contact persons and providing current, updated hotline information. The City is also required to organize events targeted to residents and population subgroups to "educate and involve the community in storm water and non-storm water pollution prevent and clean-up (e.g., education seminars, clean-ups, and community catch basin stenciling)."

(iv) Permit Part VI.D.5.d. requires the City to conduct stormwater pollution prevention public service announcements and advertising campaigns and provide public education materials on the proper handling of vehicle waste fluids, house, and construction waste, pesticides and fertilizers (including the use of integrated pest management practices), green waste and animal

wastes. This Part further requires the City (a) to distribute public education materials at automotive parts stores, home improvement centers, lumber yards and hardware and paint stores, landscaping and gardening centers and pet shops and feed stores, and (b) to maintain stormwater websites or provide links to stormwater websites via the City's website, which must include educational material and opportunities for public participation in stormwater pollution and cleanup activities and provide schools within the City's jurisdiction with materials to education K-12 students on stormwater pollution. In each of these requirements, Permit Part VID.5.d. requires the City to "use effective strategies to educate and involve ethnic communities in storm water pollution prevention through culturally effective methods."

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

d. <u>Inventory and Inspections of Industrial/Commercial Sources</u>:

(i) Permit Part VI.D.6.b. requires the City to track nurseries and nursery centers and to include various information for each facility on the inventory, including the industrial classification code, the status of exposure of materials to stormwater, the name of the receiving water, whether the facility is tributary to a waterbody listed as impaired under CWA section 303(d) where the facility generates pollutants for which the waterbody is impaired, and whether the facility has filed a "No Exposure Certification" ("NEC") with the State Water Resources

Control Board ("State Board"). The City is required to update the inventory at least annually, through collection of information through field activities over from other means.

(ii) Permit Part VI.D.6.d. requires the City to inspect restaurants, automotive service facilities, retail gasoline outlets and nurseries and nursery centers twice during the Permit term, including an inspection within two years after the Permit's effective date. In such inspection, the the City is required, among other things, to evaluate whether the source is implementing effective source control BMPs for each corresponding activity and to require implementation of additional BMPs where stormwater from the facility discharged to the MS4 discharges to a Significant Ecological Area ("SEA"), a water body subject to TMDL provisions or a CWA section 303(d) listed waterbody.

(iii) Permit Part VI.D.6.e. requires the City to inspect industrial facilities, including those identified in 40 C.F.R. section 122.26(b)(14)(i-xi) and facilities identified in 40 C.F.R. section 122.26(d)(12)(iv)(C). In such inspections, the City is required to confirm that each facility has a current Waste Discharge Identification number for coverage under the State Board-issued General Industrial Activities Stormwater Permit or has applied for and received a no exposure certification, and to require implementation of additional BMPs where stormwater from the MS4 discharges to a waterbody subject to a TMDL or is a CWA section 303(d) listed impaired waterbodies. Additionally, for facilities discharging to MS4s that discharge to an SEA, the permittees, including the City, are required to require operators to implement additional pollutant-specific controls to reduce pollutants that are causing or contributing to exceedances of water quality standards.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

e. Post-Construction BMP Requirements:

(i) Permit Part VI.D.7.d.(iv)(1)(a) requires the City to implement a GIS or other electronic system for tracking projects that are required to have post-construction BMPs, including project identification, acreage, BMP type and description, BMP locations, dates of acceptance and maintenance agreements, inspection dates and summaries and corrective action.

(ii) Permit Part VI.D.7.d.(iv)(1)(b) requires the City to inspect all development sites upon completion of construction and before issuance of an occupancy certificate to ensure "proper installation" of Low Impact Development ("LID") measures, structural BMPs, treatment control BMPs and hydromodification control BMPs.

(iii) Permit Part VI.D.7.d.(iv)(1)(c) requires the City to develop a post-construction BMP checklist and to inspect at an interval of at least once every two years, City-operated post-construction BMPs to assess operations condition.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

f. Construction Site Requirements:

(i) Permit Part VI.D.8.g.(i) requires the City to develop an electronic system to inventory grading, encroachment, demolition, building or construction permits (or other municipal authorizations to move soil and/or construct or destruct that involves land disturbance).

(ii) Permit Part VI.D.8.g.(ii) requires the City to complete and update an inventory containing, among other items, contact information for a project, basic site information, the proximity of all water bodies, significant threats to water quality status, current construction phase where feasible, required inspection frequency, start and anticipated completion dates, whether the project has submitted a Notice of Intent to be covered under the State Board-issued General Construction Activities Stormwater Permit ("GCASP"), whether it has obtained GCASP coverage, the date the Erosion and Sediment Control Plan ("ESCP") was approved and post-construction structural BMPs subject to operation and maintenance requirements.

(iii) Permit Part VI.D.8.h requires the City to develop and implement review procedures for construction plan documents, inkling preparation and submittal of an appropriate ESCP, verification of GCASP or other permit coverage and other items. The Part further requires permittees, including the City, to develop and implement a checklist to conduct and document the review of each ESCP.

(iv) Permit Part VI.D.8.i.(i) requires the City to develop and implement technical standards for the selection, installation and maintenance of construction BMPs for all such sites within the City.

(v) Permit Part VI.D.8.i.(ii) requires that such BMPs be tailored to the risks posed by the project, as well as in minimum conformance with standards set forth in Permit Table 15, use of

BMPs meeting the requirements of Permit Tables 14 and 16 for constructions sites equal or greater than one acre or paving projects, detailed installation designs and cut sheets for use in ESCPs and maintenance expectations for each BMP or category of BMPs.

(vi) Permit PartVI.D.8.i.(iv) further requires that such technical standards must be "readily available" to the development community and must be "clearly referenced" within the City's stormwater or development services website, ordinance, permit approval process and/or ESCP review forms.

(vii) Permit Part VI.D.8.i.(v) requires local BMP technical standards to cover all items set forth in Tables 13, 14, 15 and 16 of the Permit.

(viii) Permit Part VI.D.8.j requires the City to inspect all construction sites of one acre or greater in size on the frequencies set forth in the Permit, which requires inspections prior to land disturbance activities, during active construction and at the conclusion of the project and as a condition to approving and/or issuing a Certificate of Occupancy. The frequency of inspections is set in addition in Table 17 of the Permit. As part of the inspection obligations, the permittees, including the City, must develop, implement and revise as necessary standard operating procedures that identify the inspection procedures to be followed by each permittee. Additionally, during inspections, the City must verify "active coverage" under the GCASP for specified projects; review the ESCP; inspect the site to determine whether all BMPs have been selected, installed, implemented and maintained; assess the appropriateness of planned and installed BMPs, and their effectiveness; visually observe and record non-stormwater discharge, potential illicit discharges and connections and potential discharge of pollutants in stormwater runoff; develop a written or electronic inspection report generated from a field inspection

checklist; and track the number of inspections for the site to ensure that it meets the minimum requirements of Permit Table 17.

(ix) Permit Part VI.D.8.l.(i-ii) requires the City to ensure training for "all staff whose primary job duties are related to implementing the construction storm water program," including plan reviewers and permitting staff with regard to the "technical review of local erosion and sediment control ordinance, local BMP technical standards, ESCP requirements, and the key objectives of the State Water Board QSD program, erosion sediment control/storm water inspectors in inspection procedures consistent with various standards. Additionally, if outside parties conduct inspections or review plans, the City is required to ensure that such staff are trained under the same requirements.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

g. <u>Public Agency Requirements</u>:

(i) Permit Part VI.D.9.c. requires the City to maintain an "updated inventory" of all permittee-owned or operated facilities that are potential sources of stormwater pollution, including 24 separate categories of facilities that are required to be in the inventory. The inventory must include the name and address of the facility, contact information, a narrative description of activities performed and potential pollution sources, coverage under any individual or general NPDES permits or waivers. The inventory must be updated at least once during the

five-year term of the Permit with information collected through field activities or other means.

(ii) Permit Part VI.D.9.d.(i) requires the City to develop an inventory of "retrofitting opportunities" in areas of existing development.

(iii) Permit Part VI.D.9.d.(ii-iii) requires the City to screen existing areas of development "to identify candidate areas for retrofitting using watershed models or other screening level tools" and then evaluate and rank areas of existing development to prioritize retrofitting candidates.

(iv) Permit Part VI.D.9.d.(iv) requires the City to consider the results of the evaluation by giving "highly feasible" projects a "high priority" to implement source control and treatment control BMPs in the their Storm Water Management Plan ("SWMP") and consider high priority retrofit projects as candidates for off-site mitigation for new development and redevelopment projects.

(v) Permit Part VI.D.9.d.(v) requires the City to cooperate with private landowners to "encourage site specific retrofitting projects." In such cooperation, demonstration retrofit projects, retrofits on public lands and easements, education and outreach, subsidies for retrofit projects, requiring retrofit projects as enforcement, mitigation or ordinance compliance, public and private partnerships, fees for existing discharges to the MS4 and reduction of such fees for retrofit implementation must be considered.

(vi) Permit Part VI.D.9.g.(ii) requires the City to implement an Integrated Pest Management ("IPM") program, including restrictions on the use of pesticides, restricting treatments only to remove the target organism, selection of pest controls that minimize risks to human health, "beneficial non-target organisms" and the environment, partnering with other

agencies and organizations to "encourage" the use of IPM and adopt and "verifiably implement" policies, procedures and/or ordinances requiring the minimization of pesticide use and encouraging the use of IPM techniques for public agency facilities and activities. Additionally, the City must commit and schedule to reduce the use of pesticides that cause impairments of surface waters by preparing and updating annually an inventory of pesticides, quantify pesticide use by staff and contractors and demonstrate implementation of IPM alternatives where feasible to reduce pesticide use.

(vii) Permit Part VI.D.9.h.(vii) requires permittees in areas not subject to a Trash TMDL, to install trash excluders, or equivalent devices, on or in catch basins or outfalls, except where such installation would cause flooding, unless lack of maintenance that causes the flooding. Permittees, including the City, may also employ alternative or enhanced BMPs that "provide substantially equivalent removal of trash." If alternative means are employed, the City must demonstrate that such BMPs "provide equivalent trash removal performance as excluders."

(viii) Permit Part VI.D.9.k.(ii) requires the City to train all employees and contractors "who use or have the potential to use pesticides or fertilizers" that address the potential for pesticide-related surface water toxicity, in the proper use, handling, and disposal of pesticides, least toxic methods of pest prevention and control, including IPM and the reduction of pesticide use.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years

during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

h. Illicit Connection and Discharge Requirements:

(i) Permit Part VI.D.10.d.(iii) requires the City to "ensure that signage adjacent to open channels . . . include information regarding dumping prohibitions and public reporting of illicit discharges."

(ii) Permit Part VI.D.10.d.(iv) requires the City to develop and maintain written procedures that document how complaint calls are received, documented and tracked "to ensure that all complaints are adequately addressed." Such procedures must be "evaluated to determine whether changes or updates are needed to ensure that the procedures adequately document the methods employed by the Permittee."

(iii) Permit Part VI.D.10.d.(v) the City to maintain documentation of complaint calls and to record the location of the reported spill or illicit discharge and the action undertaken in response.

(iv) Permit Part VI.D.10.e.(i) requires, in pertinent part, that the City implement a "spill response plan" for all sewage and other spills that may discharge into its MS4.

(v) Permit Part VI.D.10.e.(i)(1) requires that the plan must identify agencies responsible for spill response and cleanup, phone numbers and e-mail addresses for contacts and shall further address coordination with spill response teams "throughout all appropriate departments, programs and agencies so that maximum water quality protection is provided."

(vi) Part VI.D.10.e.(i)(3-4) require the City to respond to spills for containment within four hours of become aware of the spill, or if on private property, within two hours of gaining

legal access to the property and reporting of spills that may endanger health or the environment to appropriate public health agencies and the Office of Emergency Services ("OES").

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 25 day of June, 2014, at CARSON, California.

DECLARATION OF MIKE O'GRADY

CITY OF CERRITOS

I, Mike O'Grady, hereby declare and state as follows:

1. I am Environmental Services Manager for the City of Cerritos ("City"). In that capacity, I share responsibility for the compliance of the City with regard to the requirements of California Regional Water Quality Control Board, Los Angeles Region ("LARWQCB") Order No. R4-2012-0175 ("the Permit") as they apply to the City.

2. I have reviewed sections of the Permit and its attachments as set forth herein and am familiar with those provisions. I am also familiar with how the Permit changed requirements that were previously imposed on the City by the prior permit that had issued to the City by the LARWQCB in 2001 ("2001 Permit").

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

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

5. In Section 5 and Section 7 of this Test Claim, which contains exhibits to the test claim filed by the City and other permittees under the Permit, the specific sections of the Permit at issue in the test claim have been set forth. I hereby incorporate such provisions of Sections 5 and 7 into this declaration as though fully set forth herein.

6. The City has elected to participate in a Watershed Management Plan or Enhanced Watershed Management Plan ("WMP/EWMP") that will be designed to address, in whole or in part, the "Total Maximum Daily Load ("TMDL") provisions of the Permit as well other requirements of the Permit, including those set forth in this Declaration.

7. Based on my understanding of the Permit, I believe that the Permit requires the City to undertake the following programs either directly or through the mechanism of a WMP/EWMP, which represent new programs and/or higher levels of service or the shifting of state responsibilities to the City, which activities were not required by the 2001 Permit and which are unique to local government entities:

a. <u>Implementation of TMDLs</u>:

(i) Part VI.E.1.c. requires the permittees to "comply with the applicable water quality-based effluent limitations and/or receiving water limitations contained in Attachments L through R, consistent with the assumptions and requirements of the WLAs established in the TMDLs, including implementation plans and schedules, where provided for in the State adoption and approval of the TMDL (40 CFR 122.44(d)(1)(vii)(B); Cal. Wat. Code § 13263(a))."

(ii) Attachment K to the Permit sets forth the TMDLs with which the City must comply.

(iii) Attachments L through R of the Permit set forth the requirements of each TMDL and its "waste load allocations" with which the City must comply.

(iv) Part VI.B of the Permit requires the City "to comply with the [Monitoring and Reporting Program] and future revisions thereto, in Attachment E of this Order or may, in coordination with an approved Watershed Management Program per Part VI.C, implement a

customized monitoring program that achieves the five Primary Objectives set forth in Part II.A of Attachment E and includes the elements set forth in Part II.E of Attachment E."

(v) Attachment E to the Permit requires the monitoring program to include monitoring at "TMDL receiving water compliance points" and other "TMDL monitoring requirements specified in approved TMDL Monitoring Plans." (Permit, Attachment E, Parts II.E.1 through 3 and Part V; *see also* Attachment E. Parts VI.A.1.b.(iii) and (iv), VI.B.2, VI.C.1.a, VI.D.1.a, VIII.B.1.b.(ii), IX.A.5, IX.C.1.a, IX.E.1.a and b, IX.G.1.b., and IX.G.2.)

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

b. <u>Requirements related to Discharge Prohibitions for Non-Stormwater</u>:

(i) Permit Part III.A.1 prohibits certain non-stormwater discharges through the municipal separate storm sewer system ("MS4") to receiving waters. I have been advised that this requirement exceeds the requirements of the Clean Water Act ("CWA").

(ii) Part III.A.2 requires the City to employ best management practices ("BMPs") for discharges from essential non-emergency firefighting activities and, with regard to unpermitted discharges by drinking water suppliers, to work with those suppliers on the conditions of their discharges.

(iii) Part III.A.4.a requires the City to develop and implement procedures covering non-permitted discharges of non-stormwater to the City's MS4 in compliance with the requirements of Part III.A.4.a.(i-vi) of the Permit.

(iv) Part III.A.4.b. requires the City to develop and implement procedures to minimize the discharge of landscape irrigation water into the MS4, including to coordinate with local water purveyors to promote water use efficiency, use of drought tolerant vegetation and use of less toxic options for pest control and landscape management and to develop and implement an outreach and education program to minimize the discharge of irrigation water and associated pollutants.

(v) Part III.A.4.c. requires the City to evaluate monitoring data collected pursuant to the Permit's Monitoring and Reporting Program (Permit Attachment E) and other associated data and information to determine, among other things, if authorized or conditionally authorized non-stormwater discharges are a source of pollutants that may be causing or contributing to an exceedance of receiving water limitations and/or water quality based effluent limitations.

(vi) Part III.A.4.d. requires the City to take action to address such non-stormwater discharges if they are found to be such a source of pollutants, through effective prohibition, conditions, diversions or treatment. These tasks involve, among other things, meeting with non-stormwater dischargers, identifying and analyzing the nature of non-stormwater discharges, the development and implementation of discharge procedures, conducting public education efforts and evaluating monitoring data.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

c. Public Information Program Requirements:

(i) Permit Part VI.D.5.a. requires the City to "measurably increase" the knowledge of target audiences about the MS4, the adverse impacts of stormwater pollution on receiving waters and potential solutions to mitigate impacts, to "measurably change" waste disposal and stormwater pollution generation behavior by developing and encouraging implementation of "appropriate alternatives" and to "involve and engage a diversity of socio-economic groups and ethnic communities" to participate in stormwater pollution impact mitigation.

(ii) Permit Part VI.D.5.b. the City to implement Public Information and Participation Program activities by participating in either a County-wide, Watershed Group-sponsored or individual effort.

(iii) Permit Part VI.D.5.c. requires the City to provide a means for public reporting of clogged catch basin inlets and illicit discharges/dumping, faded or missing catch basin labels and general stormwater and non-stormwater pollution prevention information through a telephone hotline or in public information or government pages of the telephone book, identify staff or departments serving as contact persons and providing current, updated hotline information. The City is also required to organize events targeted to residents and population subgroups to

"educate and involve the community in storm water and non-storm water pollution prevent and clean-up (e.g., education seminars, clean-ups, and community catch basin stenciling)."

(iv) Permit Part VI.D.5.d. requires the City to conduct stormwater pollution prevention public service announcements and advertising campaigns and provide public education materials on the proper handling of vehicle waste fluids, house, and construction waste, pesticides and fertilizers (including the use of integrated pest management practices), green waste and animal wastes. This Part further requires the City (a) to distribute public education materials at automotive parts stores, home improvement centers, lumber yards and hardware and paint stores, landscaping and gardening centers and pet shops and feed stores, and (b) to maintain stormwater websites or provide links to stormwater websites via the City's website, which must include educational material and opportunities for public participation in stormwater pollution and cleanup activities and provide schools within the City's jurisdiction with materials to education K-12 students on stormwater pollution. In each of these requirements, Permit Part VID.5.d. requires the City to "use effective strategies to educate and involve ethnic communities in storm water pollution prevention through culturally effective methods."

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

d. <u>Inventory and Inspections of Industrial/Commercial Sources</u>:

(i) Permit Part VI.D.6.b. requires the City to track nurseries and nursery centers and to include various information for each facility on the inventory, including the industrial classification code, the status of exposure of materials to stormwater, the name of the receiving water, whether the facility is tributary to a waterbody listed as impaired under CWA section 303(d) where the facility generates pollutants for which the waterbody is impaired, and whether the facility has filed a "No Exposure Certification" ("NEC") with the State Water Resources Control Board ("State Board"). The City is required to update the inventory at least annually, through collection of information through field activities over from other means.

(ii) Permit Part VI.D.6.d. requires the City to inspect restaurants, automotive service facilities, retail gasoline outlets and nurseries and nursery centers twice during the Permit term, including an inspection within two years after the Permit's effective date. In such inspection, the City is required, among other things, to evaluate whether the source is implementing effective source control BMPs for each corresponding activity and to require implementation of additional BMPs where stormwater from the facility discharged to the MS4 discharges to a Significant Ecological Area ("SEA"), a water body subject to TMDL provisions or a CWA section 303(d) listed waterbody.

(iii) Permit Part VI.D.6.e. requires the City to inspect industrial facilities, including those identified in 40 C.F.R. section 122.26(b)(14)(i-xi) and facilities identified in 40 C.F.R. section 122.26(d)(12)(iv)(C). In such inspections, the City is required to confirm that each facility has a current Waste Discharge Identification number for coverage under the State Board-issued General Industrial Activities Stormwater Permit or has applied for and received a no exposure certification, and to require implementation of additional BMPs where stormwater from the MS4

discharges to a waterbody subject to a TMDL or is a CWA section 303(d) listed impaired waterbodies. Additionally, for facilities discharging to MS4s that discharge to an SEA, the permittees, including the City, are required to require operators to implement additional pollutant-specific controls to reduce pollutants that are causing or contributing to exceedances of water quality standards.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

e. **Post-Construction BMP Requirements**:

(i) Permit Part VI.D.7.d.(iv)(1)(a) requires the City to implement a GIS or other electronic system for tracking projects that are required to have post-construction BMPs, including project identification, acreage, BMP type and description, BMP locations, dates of acceptance and maintenance agreements, inspection dates and summaries and corrective action.

(ii) Permit Part VI.D.7.d.(iv)(1)(b) requires the City to inspect all development sites upon completion of construction and before issuance of an occupancy certificate to ensure "proper installation" of Low Impact Development ("LID") measures, structural BMPs, treatment control BMPs and hydromodification control BMPs.

(iii) Permit Part VI.D.7.d.(iv)(1)(c) requires the City to develop a post-construction BMP checklist and to inspect at an interval of at least once every two years, City-operated post-construction BMPs to assess operations condition.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

f. Construction Site Requirements:

(i) Permit Part VI.D.8.g.(i) requires the City to develop an electronic system to inventory grading, encroachment, demolition, building or construction permits (or other municipal authorizations to move soil and/or construct or destruct that involves land disturbance).

(ii) Permit Part VI.D.8.g.(ii) requires the City to complete and update an inventory containing, among other items, contact information for a project, basic site information, the proximity of all water bodies, significant threats to water quality status, current construction phase where feasible, required inspection frequency, start and anticipated completion dates, whether the project has submitted a Notice of Intent to be covered under the State Board-issued General Construction Activities Stormwater Permit ("GCASP"), whether it has obtained GCASP coverage, the date the Erosion and Sediment Control Plan ("ESCP") was approved and post-construction structural BMPs subject to operation and maintenance requirements.

(iii) Permit Part VI.D.8.h requires the City to develop and implement review procedures for construction plan documents, inkling preparation and submittal of an appropriate ESCP, verification of GCASP or other permit coverage and other items. The Part further requires permittees, including the City, to develop and implement a checklist to conduct and document the review of each ESCP.

(iv) Permit Part VI.D.8.i.(i) requires the City to develop and implement technical standards for the selection, installation and maintenance of construction BMPs for all such sites within the City.

(v) Permit Part VI.D.8.i.(ii) requires that such BMPs be tailored to the risks posed by the project, as well as in minimum conformance with standards set forth in Permit Table 15, use of BMPs meeting the requirements of Permit Tables 14 and 16 for constructions sites equal or greater than one acre or paving projects, detailed installation designs and cut sheets for use in ESCPs and maintenance expectations for each BMP or category of BMPs.

(vi) Permit PartVI.D.8.i.(iv) further requires that such technical standards must be "readily available" to the development community and must be "clearly referenced" within the City's stormwater or development services website, ordinance, permit approval process and/or ESCP review forms.

(vii) Permit Part VI.D.8.i.(v) requires local BMP technical standards to cover all items set forth in Tables 13, 14, 15 and 16 of the Permit.

(viii) Permit Part VI.D.8.j requires the City to inspect all construction sites of one acre or greater in size on the frequencies set forth in the Permit, which requires inspections prior to land

disturbance activities, during active construction and at the conclusion of the project and as a condition to approving and/or issuing a Certificate of Occupancy. The frequency of inspections is set in addition in Table 17 of the Permit. As part of the inspection obligations, the permittees, including the City, must develop, implement and revise as necessary standard operating procedures that identify the inspection procedures to be followed by each permittee. Additionally, during inspections, the City must verify "active coverage" under the GCASP for specified projects; review the ESCP; inspect the site to determine whether all BMPs have been selected, installed, implemented and maintained; assess the appropriateness of planned and installed BMPs, and their effectiveness; visually observe and record non-stormwater discharge, potential illicit discharges and connections and potential discharge of pollutants in stormwater runoff; develop a written or electronic inspection report generated from a field inspection checklist; and track the number of inspections for the site to ensure that it meets the minimum requirements of Permit Table 17.

(ix) Permit Part VI.D.8.l.(i-ii) requires the City to ensure training for "all staff whose primary job duties are related to implementing the construction storm water program," including plan reviewers and permitting staff with regard to the "technical review of local erosion and sediment control ordinance, local BMP technical standards, ESCP requirements, and the key objectives of the State Water Board QSD program, erosion sediment control/storm water inspectors in inspection procedures consistent with various standards. Additionally, if outside parties conduct inspections or review plans, the City is required to ensure that such staff are trained under the same requirements.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

g. **Public Agency Requirements**:

(i) Permit Part VI.D.9.c. requires the City to maintain an "updated inventory" of all permittee-owned or operated facilities that are potential sources of stormwater pollution, including 24 separate categories of facilities that are required to be in the inventory. The inventory must include the name and address of the facility, contact information, a narrative description of activities performed and potential pollution sources, coverage under any individual or general NPDES permits or waivers. The inventory must be updated at least once during the five-year term of the Permit with information collected through field activities or other means.

(ii) Permit Part VI.D.9.d.(i) requires the City to develop an inventory of "retrofitting opportunities" in areas of existing development.

(iii) Permit Part VI.D.9.d.(ii-iii) requires the City to screen existing areas of development "to identify candidate areas for retrofitting using watershed models or other screening level tools" and then evaluate and rank areas of existing development to prioritize retrofitting candidates.

(iv) Permit Part VI.D.9.d.(iv) requires the City to consider the results of the evaluation by giving "highly feasible" projects a "high priority" to implement source control and treatment

control BMPs in the their Storm Water Management Plan ("SWMP") and consider high priority retrofit projects as candidates for off-site mitigation for new development and redevelopment projects.

(v) Permit Part VI.D.9.d.(v) requires the City to cooperate with private landowners to "encourage site specific retrofitting projects." In such cooperation, demonstration retrofit projects, retrofits on public lands and easements, education and outreach, subsidies for retrofit projects, requiring retrofit projects as enforcement, mitigation or ordinance compliance, public and private partnerships, fees for existing discharges to the MS4 and reduction of such fees for retrofit implementation must be considered.

(vi) Permit Part VI.D.9.g.(ii) requires the City to implement an Integrated Pest Management ("IPM") program, including restrictions on the use of pesticides, restricting treatments only to remove the target organism, selection of pest controls that minimize risks to human health, "beneficial non-target organisms" and the environment, partnering with other agencies and organizations to "encourage" the use of IPM and adopt and "verifiably implement" policies, procedures and/or ordinances requiring the minimization of pesticide use and encouraging the use of IPM techniques for public agency facilities and activities. Additionally, the City must commit and schedule to reduce the use of pesticides that cause impairments of surface waters by preparing and updating annually an inventory of pesticides, quantify pesticide use by staff and contractors and demonstrate implementation of IPM alternatives where feasible to reduce pesticide use.

(vii) Permit Part VI.D.9.h.(vii) requires permittees in areas not subject to a Trash TMDL, to install trash excluders, or equivalent devices, on or in catch basins or outfalls, except where such installation would cause flooding, unless lack of maintenance that causes the flooding. Permittees, including the City, may also employ alternative or enhanced BMPs that "provide substantially equivalent removal of trash." If alternative means are employed, the City must demonstrate that such BMPs "provide equivalent trash removal performance as excluders."

(viii) Permit Part VI.D.9.k.(ii) requires the City to train all employees and contractors "who use or have the potential to use pesticides or fertilizers" that address the potential for pesticide-related surface water toxicity, in the proper use, handling, and disposal of pesticides, least toxic methods of pest prevention and control, including IPM and the reduction of pesticide use.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

h. <u>Illicit Connection and Discharge Requirements</u>:

(i) Permit Part VI.D.10.d.(iii) requires the City to "ensure that signage adjacent to open channels . . . include information regarding dumping prohibitions and public reporting of illicit discharges."

(ii) Permit Part VI.D.10.d.(iv) requires the City to develop and maintain written procedures that document how complaint calls are received, documented and tracked "to ensure that all complaints are adequately addressed." Such procedures must be "evaluated to determine whether changes or updates are needed to ensure that the procedures adequately document the methods employed by the Permittee."

(iii) Permit Part VI.D.10.d.(v) the City to maintain documentation of complaint calls and to record the location of the reported spill or illicit discharge and the action undertaken in response.

(iv) Permit Part VI.D.10.e.(i) requires, in pertinent part, that the City implement a "spill response plan" for all sewage and other spills that may discharge into its MS4.

(v) Permit Part VI.D.10.e.(i)(1) requires that the plan must identify agencies responsible for spill response and cleanup, phone numbers and e-mail addresses for contacts and shall further address coordination with spill response teams "throughout all appropriate departments, programs and agencies so that maximum water quality protection is provided."

(vi) Part VI.D.10.e.(i)(3-4) require the City to respond to spills for containment within four hours of become aware of the spill, or if on private property, within two hours of gaining legal access to the property and reporting of spills that may endanger health or the environment to appropriate public health agencies and the Office of Emergency Services ("OES").

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years

during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 27th day of June, 2014, at Cerritos, California.

DECLARATION OF MARYAM BABAKI

CITY OF COMMERCE

I, Maryam Babaki, hereby declare and state as follows:

1. I am the Director of Public Works and Development Services of the City of Commerce ("City"). In that capacity, I share responsibility for the compliance of the City with regard to the requirements of California Regional Water Quality Control Board, Los Angeles Region ("LARWQCB") Order No. R4-2012-0175 ("the Permit") as they apply to the City.

2. I have reviewed sections of the Permit and its attachments as set forth herein and am familiar with those provisions. I am also familiar with how the Permit changed requirements that were previously imposed on the City by the prior permit that had issued to the City by the LARWQCB in 2001 ("2001 Permit").

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

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

5. In Section 5 and Section 7 of this Test Claim, which contains exhibits to the test claim filed by the City and other permittees under the Permit, the specific sections of the Permit at issue in the test claim have been set forth. I hereby incorporate such provisions of Sections 5 and 7 into this declaration as though fully set forth herein.

6. The City has elected to participate in a Watershed Management Plan or Enhanced Watershed Management Plan ("WMP/EWMP") that will be designed to address, in whole or in

part, the "Total Maximum Daily Load (TMDL")" provisions of the Permit as well other requirements of the Permit, including those set forth in this Declaration.

7. Based on my understanding of the Permit, I believe that the Permit requires the City to undertake the following programs either directly or through the mechanism of a WMP/EWMP, which represent new programs and/or higher levels of service or the shifting of state responsibilities to the City, which activities were not required by the 2001 Permit and which are unique to local government entities:

a. Implementation of TMDLs:

(i) Part VI.E.1.c. requires the permittees to "comply with the applicable water quality-based effluent limitations and/or receiving water limitations contained in Attachments L through R, consistent with the assumptions and requirements of the WLAs established in the TMDLs, including implementation plans and schedules, where provided for in the State adoption and approval of the TMDL (40 CFR 122.44(d)(1)(vii)(B); Cal. Wat. Code § 13263(a))."

(ii) Attachment K to the Permit sets forth the TMDLs with which the City must comply.

(iii) Attachments L through R of the Permit set forth the requirements of each TMDL and its "waste load allocations " with which the City must comply.

(iv) Part VI.B of the Permit requires the City "to comply with the [Monitoring and Reporting Program] and future revisions thereto, in Attachment E of this Order or may, in coordination with an approved Watershed Management Program per Part VI.C, implement a customized monitoring program that achieves the five Primary Objectives set forth in Part II.A of Attachment E and includes the elements set forth in Part II.E of Attachment E."

(v) Attachment E to the Permit requires the monitoring program to include monitoring at "TMDL receiving water compliance points" and other "TMDL monitoring requirements specified in approved TMDL Monitoring Plans." (Permit, Attachment E, Parts II.E.1 through 3 and Part V; *see also* Attachment E. Parts VI.A.1.b.(iii) and (iv), VI.B.2, VI.C.1.a, VI.D.1.a, VIII.B.1.b.(ii), IX.A.5, IX.C.1.a, IX.E.1.a and b, IX.G.1.b., and IX.G.2.)

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

b. **Requirements related to Discharge Prohibitions for Non-Stormwater**:

(i) Permit Part III.A.1 prohibits certain non-stormwater discharges through the municipal separate storm sewer system ("MS4") to receiving waters. I have been advised that this requirement exceeds the requirements of the Clean Water Act ("CWA").

(ii) Part III.A.2 requires the City to employ best management practices ("BMPs") for discharges from essential non-emergency firefighting activities and, with regard to unpermitted discharges by drinking water suppliers, to work with those suppliers on the conditions of their discharges.

(iii) Part III.A.4.a requires the City to develop and implement procedures covering non-permitted discharges of non-stormwater to the City's MS4 in compliance with the requirements of Part III.A.4.a.(i-vi) of the Permit.

(iv) Part III.A.4.b. requires the City to develop and implement procedures to minimize the discharge of landscape irrigation water into the MS4, including to coordinate with local water purveyors to promote water use efficiency, use of drought tolerant vegetation and use of less toxic options for pest control and landscape management and to develop and implement an outreach and education program to minimize the discharge of irrigation water and associated pollutants.

(v) Part III.A.4.c. requires the City to evaluate monitoring data collected pursuant to the Permit's Monitoring and Reporting Program (Permit Attachment E) and other associated data and information to determine, among other things, if authorized or conditionally authorized non-stormwater discharges are a source of pollutants that may be causing or contributing to an exceedance of receiving water limitations and/or water quality based effluent limitations.

(vi) Part III.A.4.d. requires the City to take action to address such non-stormwater discharges if they are found to be such a source of pollutants, through effective prohibition, conditions, diversions or treatment. These tasks involve, among other things, meeting with non-stormwater dischargers, identifying and analyzing the nature of non-stormwater discharges, the development and implementation of discharge procedures, conducting public education efforts and evaluating monitoring data.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

c. **Public Information Program Requirements**:

(i) Permit Part VI.D.5.a. requires the City to "measurably increase" the knowledge of target audiences about the MS4, the adverse impacts of stormwater pollution on receiving waters and potential solutions to mitigate impacts, to "measurably change" waste disposal and stormwater pollution generation behavior by developing and encouraging implementation of "appropriate alternatives" and to "involve and engage a diversity of socio-economic groups and ethnic communities" to participate in stormwater pollution impact mitigation.

(ii) Permit Part VI.D.5.b. the City to implement Public Information and Participation Program activities by participating in either a County-wide, Watershed Group-sponsored or individual effort.

(iii) Permit Part VI.D.5.c. requires the City to provide a means for public reporting of clogged catch basin inlets and illicit discharges/dumping, faded or missing catch basin labels and general stormwater and non-stormwater pollution prevention information through a telephone hotline or in public information or government pages of the telephone book, identify staff or departments serving as contact persons and providing current, updated hotline information. The City is also required to organize events targeted to residents and population subgroups to "educate and involve the community in storm water and non-storm water pollution prevent and clean-up (e.g., education seminars, clean-ups, and community catch basin stenciling)."

(iv) Permit Part VI.D.5.d. requires the City to conduct stormwater pollution prevention public service announcements and advertising campaigns and provide public education materials on the proper handling of vehicle waste fluids, house, and construction waste, pesticides and fertilizers (including the use of integrated pest management practices), green waste and animal

wastes. This Part further requires the City (a) to distribute public education materials at automotive parts stores, home improvement centers, lumber yards and hardware and paint stores, landscaping and gardening centers and pet shops and feed stores, and (b) to maintain stormwater websites or provide links to stormwater websites via the City's website, which must include educational material and opportunities for public participation in stormwater pollution and cleanup activities and provide schools within the City's jurisdiction with materials to education K-12 students on stormwater pollution. In each of these requirements, Permit Part VID.5.d. requires the City to "use effective strategies to educate and involve ethnic communities in storm water pollution prevention through culturally effective methods."

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

d. <u>Inventory and Inspections of Industrial/Commercial Sources</u>:

(i) Permit Part VI.D.6.b. requires the City to track nurseries and nursery centers and to include various information for each facility on the inventory, including the industrial classification code, the status of exposure of materials to stormwater, the name of the receiving water, whether the facility is tributary to a waterbody listed as impaired under CWA section 303(d) where the facility generates pollutants for which the waterbody is impaired, and whether the facility has filed a "No Exposure Certification" ("NEC") with the State Water Resources

Control Board ("State Board"). The City is required to update the inventory at least annually, through collection of information through field activities over from other means.

(ii) Permit Part VI.D.6.d. requires the City to inspect restaurants, automotive service facilities, retail gasoline outlets and nurseries and nursery centers twice during the Permit term, including an inspection within two years after the Permit's effective date. In such inspection, the City is required, among other things, to evaluate whether the source is implementing effective source control BMPs for each corresponding activity and to require implementation of additional BMPs where stormwater from the facility discharged to the MS4 discharges to a Significant Ecological Area ("SEA"), a water body subject to TMDL provisions or a CWA section 303(d) listed waterbody.

(iii) Permit Part VI.D.6.e. requires the City to inspect industrial facilities, including those identified in 40 C.F.R. section 122.26(b)(14)(i-xi) and facilities identified in 40 C.F.R. section 122.26(d)(12)(iv)(C). In such inspections, the City is required to confirm that each facility has a current Waste Discharge Identification number for coverage under the State Board-issued General Industrial Activities Stormwater Permit or has applied for and received a no exposure certification, and to require implementation of additional BMPs where stormwater from the MS4 discharges to a waterbody subject to a TMDL or is a CWA section 303(d) listed impaired waterbodies. Additionally, for facilities discharging to MS4s that discharge to an SEA, the permittees, including the City, are required to require operators to implement additional pollutant-specific controls to reduce pollutants that are causing or contributing to exceedances of water quality standards.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

e. **Post-Construction BMP Requirements**:

(i) Permit Part VI.D.7.d.(iv)(1)(a) requires the City to implement a GIS or other electronic system for tracking projects that are required to have post-construction BMPs, including project identification, acreage, BMP type and description, BMP locations, dates of acceptance and maintenance agreements, inspection dates and summaries and corrective action.

(ii) Permit Part VI.D.7.d.(iv)(1)(b) requires the City to inspect all development sites upon completion of construction and before issuance of an occupancy certificate to ensure "proper installation" of Low Impact Development ("LID") measures, structural BMPs, treatment control BMPs and hydromodification control BMPs.

(iii) Permit Part VI.D.7.d.(iv)(1)(c) requires the City to develop a post-construction BMP checklist and to inspect at an interval of at least once every two years, City-operated post-construction BMPs to assess operations condition.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in execss of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

f. Construction Site Requirements:

(i) Permit Part VI.D.8.g.(i) requires the City to develop an electronic system to inventory grading, encroachment, demolition, building or construction permits (or other municipal authorizations to move soil and/or construct or destruct that involves land disturbance).

(ii) Permit Part VI.D.8.g.(ii) requires the City to complete and update an inventory containing, among other items, contact information for a project, basic site information, the proximity of all water bodies, significant threats to water quality status, current construction phase where feasible, required inspection frequency, start and anticipated completion dates, whether the project has submitted a Notice of Intent to be covered under the State Board-issued General Construction Activities Stormwater Permit ("GCASP"), whether it has obtained GCASP coverage, the date the Erosion and Sediment Control Plan ("ESCP") was approved and post-construction structural BMPs subject to operation and maintenance requirements.

(iii) Permit Part VI.D.8.h requires the City to develop and implement review procedures for construction plan documents, inkling preparation and submittal of an appropriate ESCP, verification of GCASP or other permit coverage and other items. The Part further requires permittees, including the City, to develop and implement a checklist to conduct and document the review of each ESCP.

(iv) Permit Part VI.D.8.i.(i) requires the City to develop and implement technical standards for the selection, installation and maintenance of construction BMPs for all such sites within the City.

(v) Permit Part VI.D.8.i.(ii) requires that sucb BMPs be tailored to the risks posed by the projeet, as well as in minimum conformance with standards set forth in Permit Table 15, use of

BMPs meeting the requirements of Permit Tables 14 and 16 for constructions sites equal or greater than one acre or paving projects, detailed installation designs and cut sheets for use in ESCPs and maintenance expectations for each BMP or category of BMPs.

(vi) Permit PartVI.D.8.i.(iv) further requires that such technical standards must be "readily available" to the development community and must be "clearly referenced" within the City's stormwater or development services website, ordinance, permit approval process and/or ESCP review forms.

(vii) Permit Part VI.D.8.i.(v) requires local BMP technical standards to cover all items set forth in Tables 13, 14, 15 and 16 of the Permit.

(viii) Permit Part VI.D.8.j requires the City to inspect all construction sites of one acre or greater in size on the frequencies set forth in the Permit, which requires inspections prior to land disturbance activities, during active construction and at the conclusion of the project and as a condition to approving and/or issuing a Certificate of Occupancy. The frequency of inspections is set in addition in Table 17 of the Permit. As part of the inspection obligations, the permittees, including the City, must develop, implement and revise as necessary standard operating procedures that identify the inspection procedures to be followed by each permittee. Additionally, during inspections, the City must verify "active coverage" under the GCASP for specified projects; review the ESCP; inspect the site to determine whether all BMPs have been selected, installed, implemented and maintained; assess the appropriateness of planned and installed BMPs, and their effcetiveness; visually observe and record non-stormwater discharge, potential illicit discharges and connections and potential discharge of pollutants in stormwater runoff; develop a written or electronic inspection report generated from a field inspection

checklist; and track the number of inspections for the site to ensure that it meets the minimum requirements of Permit Table 17.

(ix) Permit Part VI.D.8.l.(i-ii) requires the City to ensure training for "all staff whose primary job duties are related to implementing the construction storm water program," including plan reviewers and permitting staff with regard to the "technical review of local erosion and sediment control ordinance, local BMP technical standards, ESCP requirements, and the key objectives of the State Water Board QSD program, erosion sediment control/storm water inspectors in inspection procedures consistent with various standards. Additionally, if outside parties conduct inspections or review plans, the City is required to ensure that such staff are trained under the same requirements.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

g. **Public Agency Requirements**:

(i) Permit Part VI.D.9.c. requires the City to maintain an "updated inventory" of all permittee-owned or operated facilities that are potential sources of stormwater pollution, including 24 separate categories of facilities that are required to be in the inventory. The inventory must include the name and address of the facility, contact information, a narrative description of activities performed and potential pollution sources, coverage under any individual or general NPDES permits or waivers. The inventory must be updated at least once during the

five-year term of the Permit with information collected through field activities or other means.

(ii) Permit Part VI.D.9.d.(i) requires the City to develop an inventory of "retrofitting opportunities" in areas of existing development.

(iii) Permit Part VI.D.9.d.(ii-iii) requires the City to screen existing areas of development "to identify candidate areas for retrofitting using watershed models or other screening level tools" and then evaluate and rank areas of existing development to prioritize retrofitting candidates.

(iv) Permit Part VI.D.9.d.(iv) requires the City to consider the results of the evaluation by giving "highly feasible" projects a "high priority" to implement source control and treatment control BMPs in the their Storm Water Management Plan ("SWMP") and consider high priority retrofit projects as candidates for off-site mitigation for new development and redevelopment projects.

(v) Permit Part VI.D.9.d.(v) requires the City to cooperate with private landowners to "encourage site specific retrofitting projects." In such cooperation, demonstration retrofit projects, retrofits on public lands and easements, education and outreach, subsidies for retrofit projects, requiring retrofit projects as enforcement, mitigation or ordinance compliance, public and private partnerships, fees for existing discharges to the MS4 and reduction of such fees for retrofit implementation must be considered.

(vi) Permit Part VI.D.9.g.(ii) requires the City to implement an Integrated Pest Management ("IPM") program, including restrictions on the use of pesticides, restricting treatments only to remove the target organism, selection of pest controls that minimize risks to human health, "beneficial non-target organisms" and the environment, partnering with other

agencies and organizations to "encourage" the use of IPM and adopt and "verifiably implement" policies, procedures and/or ordinances requiring the minimization of pesticide use and encouraging the use of IPM techniques for public agency facilities and activities. Additionally, the City must commit and schedule to reduce the use of pesticides that cause impairments of surface waters by preparing and updating annually an inventory of pesticides, quantify pesticide use by staff and contractors and demonstrate implementation of IPM alternatives where feasible to reduce pesticide use.

(vii) Permit Part VI.D.9.k.(ii) requires the City to train all employees and contractors "who use or have the potential to use pesticides or fertilizers" that address the potential for pesticide-related surface water toxicity, in the proper use, handling, and disposal of pesticides, least toxic methods of pest prevention and control, including IPM and the reduction of pesticide use.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

h. Illicit Connection and Discharge Requirements:

(i) Permit Part VI.D.10.d.(iii) requires the City to "ensure that signage adjacent to open channels . . . include information regarding dumping prohibitions and public reporting of illicit discharges."

(ii) Permit Part VI.D.10.d.(iv) requires the City to develop and maintain written procedures that document how complaint calls are received, documented and tracked "to ensure that all complaints are adequately addressed." Such procedures must be "evaluated to determine whether changes or updates are needed to ensure that the procedures adequately document the methods employed by the Permittee."

(iii) Permit Part VI.D.10.d.(v) the City to maintain documentation of complaint calls and to record the location of the reported spill or illicit discharge and the action undertaken in response.

(iv) Permit Part VI.D.10.e.(i) requires, in pertinent part, that the City implement a "spill response plan" for all sewage and other spills that may discharge into its MS4.

(v) Permit Part VI.D.10.e.(i)(1) requires that the plan must identify agencies responsible for spill response and cleanup, phone numbers and e-mail addresses for contacts and shall further address coordination with spill response teams "throughout all appropriate departments, programs and agencies so that maximum water quality protection is provided."

(vi) Part VI.D.10.e.(i)(3-4) require the City to respond to spills for containment within four hours of become aware of the spill, or if on private property, within two hours of gaining legal access to the property and reporting of spills that may endanger health or the environment to appropriate public health agencies and the Office of Emergency Services ("OES").

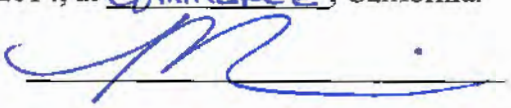
I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years

during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 25 day of June, 2014, at COMMERCE, California.



DECLARATION OF KALIEH HONISH

CITY OF COVINA

I, Kalieh Honish, hereby declare and state as follows:

1. I am Interim Director of Public Works for the City of Covina ("City"). In that capacity, I share responsibility for the compliance of the City with regard to the requirements of California Regional Water Quality Control Board, Los Angeles Region ("LARWQCB") Order No. R4-2012-0175 ("the Permit") as they apply to the City.

2. I have reviewed sections of the Permit and its attachments as set forth herein and am familiar with those provisions. I am also familiar with how the Permit changed requirements that were previously imposed on the City by the prior permit that had issued to the City by the LARWQCB in 2001 ("2001 Permit").

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

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

5. In Section 5 and Section 7 of this Test Claim, which contains exhibits to the test claim filed by the City and other permittees under the Permit, the specific sections of the Permit at issue in the test claim have been set forth. I hereby incorporate such provisions of Sections 5 and 7 into this declaration as though fully set forth herein.

6. The City has elected to participate in a Watershed Management Plan or Enhanced Watershed Management Plan ("WMP/EWMP") that will be designed to address, in whole or in

part, the "Total Maximum Daily Load (TMDL")" provisions of the Permit as well other requirements of the Permit, including those set forth in this Declaration.

7. Based on my understanding of the Permit, I believe that the Permit requires the City to undertake the following programs either directly or through the mechanism of a WMP/EWMP, which represent new programs and/or higher levels of service or the shifting of state responsibilities to the City, which activities were not required by the 2001 Permit and which are unique to local government entities:

a. Implementation of TMDLs:

(i) Part VI.E.1.c. requires the permittees to "comply with the applicable water quality-based effluent limitations and/or receiving water limitations contained in Attachments L through R, consistent with the assumptions and requirements of the WLAs established in the TMDLs, including implementation plans and schedules, where provided for in the State adoption and approval of the TMDL (40 CFR 122.44(d)(1)(vii)(B); Cal. Wat. Code § 13263(a))."

(ii) Attachment K to the Permit sets forth the TMDLs with which the City must comply.

(iii) Attachments L through R of the Permit set forth the requirements of each TMDL and its "waste load allocations " with which the City must comply.

(iv) Part VI.B of the Permit requires the City "to comply with the [Monitoring and Reporting Program] and future revisions thereto, in Attachment E of this Order or may, in coordination with an approved Watershed Management Program per Part VI.C, implement a customized monitoring program that achieves the five Primary Objectives set forth in Part II.A of Attachment E and includes the elements set forth in Part II.E of Attachment E."

(v) Attachment E to the Permit requires the monitoring program to include monitoring at "TMDL receiving water compliance points" and other "TMDL monitoring requirements specified in approved TMDL Monitoring Plans." (Permit, Attachment E, Parts II.E.1 through 3 and Part V; *see also* Attachment E. Parts VI.A.1.b.(iii) and (iv), VI.B.2, VI.C.1.a, VI.D.1.a, VIII.B.1.b.(ii), IX.A.5, IX.C.1.a, IX.E.1.a and b, IX.G.1.b., and IX.G.2.)

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

b. <u>Requirements related to Discharge Prohibitions for Non-Stormwater</u>:

(i) Permit Part III.A.1 prohibits certain non-stormwater discharges through the municipal separate storm sewer system ("MS4") to receiving waters. I have been advised that this requirement exceeds the requirements of the Clean Water Act ("CWA").

(ii) Part III.A.2 requires the City to employ best management practices ("BMPs") for discharges from essential non-emergency firefighting activities and, with regard to unpermitted discharges by drinking water suppliers, to work with those suppliers on the conditions of their discharges.

(iii) Part III.A.4.a requires the City to develop and implement procedures covering non-permitted discharges of non-stormwater to the City's MS4 in compliance with the requirements of Part III.A.4.a.(i-vi) of the Permit.

(iv) Part III.A.4.b. requires the City to develop and implement procedures to minimize the discharge of landscape irrigation water into the MS4, including to coordinate with local water purveyors to promote water use efficiency, use of drought tolerant vegetation and use of less toxic options for pest control and landscape management and to develop and implement an outreach and education program to minimize the discharge of irrigation water and associated pollutants.

(v) Part III.A.4.c. requires the City to evaluate monitoring data collected pursuant to the Permit's Monitoring and Reporting Program (Permit Attachment E) and other associated data and information to determine, among other things, if authorized or conditionally authorized non-stormwater discharges are a source of pollutants that may be causing or contributing to an exceedance of receiving water limitations and/or water quality based effluent limitations.

(vi) Part III.A.4.d. requires the City to take action to address such non-stormwater discharges if they are found to be such a source of pollutants, through effective prohibition, conditions, diversions or treatment. These tasks involve, among other things, meeting with non-stormwater dischargers, identifying and analyzing the nature of non-stormwater discharges, the development and implementation of discharge procedures, conducting public education efforts and evaluating monitoring data.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

c. **Public Information Program Requirements**:

(i) Permit Part VI.D.5.a. requires the City to "measurably increase" the knowledge of target audiences about the MS4, the adverse impacts of stormwater pollution on receiving waters and potential solutions to mitigate impacts, to "measurably change" waste disposal and stormwater pollution generation behavior by developing and encouraging implementation of "appropriate alternatives" and to "involve and engage a diversity of socio-economic groups and ethnic communities" to participate in stormwater pollution impact mitigation.

(ii) Permit Part VI.D.5.b. the City to implement Public Information and Participation Program activities by participating in either a County-wide, Watershed Group-sponsored or individual effort.

(iii) Permit Part VI.D.5.c. requires the City to provide a means for public reporting of clogged catch basin inlets and illicit discharges/dumping, faded or missing catch basin labels and general stormwater and non-stormwater pollution prevention information through a telephone hotline or in public information or government pages of the telephone book, identify staff or departments serving as contact persons and providing current, updated hotline information. The City is also required to organize events targeted to residents and population subgroups to "educate and involve the community in storm water and non-storm water pollution prevent and clean-up (e.g., education seminars, clean-ups, and community catch basin stenciling)."

(iv) Permit Part VI.D.5.d. requires the City to conduct stormwater pollution prevention public service announcements and advertising campaigns and provide public education materials on the proper handling of vehicle waste fluids, house, and construction waste, pesticides and fertilizers (including the use of integrated pest management practices), green waste and animal

wastes. This Part further requires the City (a) to distribute public education materials at automotive parts stores, home improvement centers, lumber yards and hardware and paint stores, landscaping and gardening centers and pet shops and feed stores, and (b) to maintain stormwater websites or provide links to stormwater websites via the City's website, which must include educational material and opportunities for public participation in stormwater pollution and cleanup activities and provide schools within the City's jurisdiction with materials to education K-12 students on stormwater pollution. In each of these requirements, Permit Part VID.5.d. requires the City to "use effective strategies to educate and involve ethnic communities in storm water pollution prevention through culturally effective methods."

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

d. <u>Inventory and Inspections of Industrial/Commercial Sources</u>:

(i) Permit Part VI.D.6.b. requires the City to track nurseries and nursery centers and to include various information for each facility on the inventory, including the industrial classification code, the status of exposure of materials to stormwater, the name of the receiving water, whether the facility is tributary to a waterbody listed as impaired under CWA section 303(d) where the facility generates pollutants for which the waterbody is impaired, and whether the facility has filed a "No Exposure Certification" ("NEC") with the State Water Resources

Control Board ("State Board"). The City is required to update the inventory at least annually, through collection of information through field activities over from other means.

(ii) Permit Part VI.D.6.d. requires the City to inspect restaurants, automotive service facilities, retail gasoline outlets and nurseries and nursery centers twice during the Permit term, including an inspection within two years after the Permit's effective date. In such inspection, the the City is required, among other things, to evaluate whether the source is implementing effective source control BMPs for each corresponding activity and to require implementation of additional BMPs where stormwater from the facility discharged to the MS4 discharges to a Significant Ecological Area ("SEA"), a water body subject to TMDL provisions or a CWA section 303(d) listed waterbody.

(iii) Permit Part VI.D.6.e. requires the City to inspect industrial facilities, including those identified in 40 C.F.R. section 122.26(b)(14)(i-xi) and facilities identified in 40 C.F.R. section 122.26(d)(12)(iv)(C). In such inspections, the City is required to confirm that each facility has a current Waste Discharge Identification number for coverage under the State Board-issued General Industrial Activities Stormwater Permit or has applied for and received a no exposure certification, and to require implementation of additional BMPs where stormwater from the MS4 discharges to a waterbody subject to a TMDL or is a CWA section 303(d) listed impaired waterbodies. Additionally, for facilities discharging to MS4s that discharge to an SEA, the permittees, including the City, are required to require operators to implement additional pollutant-specific controls to reduce pollutants that are causing or contributing to exceedances of water quality standards.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

e. Post-Construction BMP Requirements:

(i) Permit Part VI.D.7.d.(iv)(1)(a) requires the City to implement a GIS or other electronic system for tracking projects that are required to have post-construction BMPs, including project identification, acreage, BMP type and description, BMP locations, dates of acceptance and maintenance agreements, inspection dates and summaries and corrective action.

(ii) Permit Part VI.D.7.d.(iv)(1)(b) requires the City to inspect all development sites upon completion of construction and before issuance of an occupancy certificate to ensure "proper installation" of Low Impact Development ("LID") measures, structural BMPs, treatment control BMPs and hydromodification control BMPs.

(iii) Permit Part VI.D.7.d.(iv)(1)(c) requires the City to develop a post-construction BMP checklist and to inspect at an interval of at least once every two years, City-operated post-construction BMPs to assess operations condition.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

f. Construction Site Requirements:

(i) Permit Part VI.D.8.g.(i) requires the City to develop an electronic system to inventory grading, encroachment, demolition, building or construction permits (or other municipal authorizations to move soil and/or construct or destruct that involves land disturbance).

(ii) Permit Part VI.D.8.g.(ii) requires the City to complete and update an inventory containing, among other items, contact information for a project, basic site information, the proximity of all water bodies, significant threats to water quality status, current construction phase where feasible, required inspection frequency, start and anticipated completion dates, whether the project has submitted a Notice of Intent to be covered under the State Board-issued General Construction Activities Stormwater Permit ("GCASP"), whether it has obtained GCASP coverage, the date the Erosion and Sediment Control Plan ("ESCP") was approved and post-construction structural BMPs subject to operation and maintenance requirements.

(iii) Permit Part VI.D.8.h requires the City to develop and implement review procedures for construction plan documents, inkling preparation and submittal of an appropriate ESCP, verification of GCASP or other permit coverage and other items. The Part further requires permittees, including the City, to develop and implement a checklist to conduct and document the review of each ESCP.

(iv) Permit Part VI.D.8.i.(i) requires the City to develop and implement technical standards for the selection, installation and maintenance of construction BMPs for all such sites within the City.

(v) Permit Part VI.D.8.i.(ii) requires that such BMPs be tailored to the risks posed by the project, as well as in minimum conformance with standards set forth in Permit Table 15, use of

BMPs meeting the requirements of Permit Tables 14 and 16 for constructions sites equal or greater than one acre or paving projects, detailed installation designs and cut sheets for use in ESCPs and maintenance expectations for each BMP or category of BMPs.

(vi) Permit PartVI.D.8.i.(iv) further requires that such technical standards must be "readily available" to the development community and must be "clearly referenced" within the City's stormwater or development services website, ordinance, permit approval process and/or ESCP review forms.

(vii) Permit Part VI.D.8.i.(v) requires local BMP technical standards to cover all items set forth in Tables 13, 14, 15 and 16 of the Permit.

(viii) Permit Part VI.D.8.j requires the City to inspect all construction sites of one acre or greater in size on the frequencies set forth in the Permit, which requires inspections prior to land disturbance activities, during active construction and at the conclusion of the project and as a condition to approving and/or issuing a Certificate of Occupancy. The frequency of inspections is set in addition in Table 17 of the Permit. As part of the inspection obligations, the permittees, including the City, must develop, implement and revise as necessary standard operating procedures that identify the inspection procedures to be followed by each permittee. Additionally, during inspections, the City must verify "active coverage" under the GCASP for specified projects; review the ESCP; inspect the site to determine whether all BMPs have been selected, installed, implemented and maintained; assess the appropriateness of planned and installed BMPs, and their effectiveness; visually observe and record non-stormwater discharge, potential illicit discharges and connections and potential discharge of pollutants in stormwater runoff; develop a written or electronic inspection report generated from a field inspection

checklist; and track the number of inspections for the site to ensure that it meets the minimum requirements of Permit Table 17.

(ix) Permit Part VI.D.8.l.(i-ii) requires the City to ensure training for "all staff whose primary job duties are related to implementing the construction storm water program," including plan reviewers and permitting staff with regard to the "technical review of local erosion and sediment control ordinance, local BMP technical standards, ESCP requirements, and the key objectives of the State Water Board QSD program, erosion sediment control/storm water inspectors in inspection procedures consistent with various standards. Additionally, if outside parties conduct inspections or review plans, the City is required to ensure that such staff are trained under the same requirements.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

g. Public Agency Requirements:

(i) Permit Part VI.D.9.c. requires the City to maintain an "updated inventory" of all permittee-owned or operated facilities that are potential sources of stormwater pollution, including 24 separate categories of facilities that are required to be in the inventory. The inventory must include the name and address of the facility, contact information, a narrative description of activities performed and potential pollution sources, coverage under any individual or general NPDES permits or waivers. The inventory must be updated at least once during the

five-year term of the Permit with information collected through field activities or other means.

(ii) Permit Part VI.D.9.d.(i) requires the City to develop an inventory of "retrofitting opportunities" in areas of existing development.

(iii) Permit Part VI.D.9.d.(ii-iii) requires the City to screen existing areas of development "to identify candidate areas for retrofitting using watershed models or other screening level tools" and then evaluate and rank areas of existing development to prioritize retrofitting candidates.

(iv) Permit Part VI.D.9.d.(iv) requires the City to consider the results of the evaluation by giving "highly feasible" projects a "high priority" to implement source control and treatment control BMPs in the their Storm Water Management Plan ("SWMP") and consider high priority retrofit projects as candidates for off-site mitigation for new development and redevelopment projects.

(v) Permit Part VI.D.9.d.(v) requires the City to cooperate with private landowners to "encourage site specific retrofitting projects." In such cooperation, demonstration retrofit projects, retrofits on public lands and easements, education and outreach, subsidies for retrofit projects, requiring retrofit projects as enforcement, mitigation or ordinance compliance, public and private partnerships, fees for existing discharges to the MS4 and reduction of such fees for retrofit implementation must be considered.

(vi) Permit Part VI.D.9.g.(ii) requires the City to implement an Integrated Pest Management ("IPM") program, including restrictions on the use of pesticides, restricting treatments only to remove the target organism, selection of pest controls that minimize risks to human health, "beneficial non-target organisms" and the environment, partnering with other

agencies and organizations to "encourage" the use of IPM and adopt and "verifiably implement" policies, procedures and/or ordinances requiring the minimization of pesticide use and encouraging the use of IPM techniques for public agency facilities and activities. Additionally, the City must commit and schedule to reduce the use of pesticides that cause impairments of surface waters by preparing and updating annually an inventory of pesticides, quantify pesticide use by staff and contractors and demonstrate implementation of IPM alternatives where feasible to reduce pesticide use.

(vii) Permit Part VI.D.9.h.(vii) requires permittees in areas not subject to a Trash TMDL, to install trash excluders, or equivalent devices, on or in catch basins or outfalls, except where such installation would cause flooding, unless lack of maintenance that causes the flooding. Permittees, including the City, may also employ alternative or enhanced BMPs that "provide substantially equivalent removal of trash." If alternative means are employed, the City must demonstrate that such BMPs "provide equivalent trash removal performance as excluders."

(viii) Permit Part VI.D.9.k.(ii) requires the City to train all employees and contractors "who use or have the potential to use pesticides or fertilizers" that address the potential for pesticide-related surface water toxicity, in the proper use, handling, and disposal of pesticides, least toxic methods of pest prevention and control, including IPM and the reduction of pesticide use.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years

during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

h. Illicit Connection and Discharge Requirements:

(i) Permit Part VI.D.10.d.(iii) requires the City to "ensure that signage adjacent to open channels . . . include information regarding dumping prohibitions and public reporting of illicit discharges."

(ii) Permit Part VI.D.10.d.(iv) requires the City to develop and maintain written procedures that document how complaint calls are received, documented and tracked "to ensure that all complaints are adequately addressed." Such procedures must be "evaluated to determine whether changes or updates are needed to ensure that the procedures adequately document the methods employed by the Permittee."

(iii) Permit Part VI.D.10.d.(v) the City to maintain documentation of complaint calls and to record the location of the reported spill or illicit discharge and the action undertaken in response.

(iv) Permit Part VI.D.10.e.(i) requires, in pertinent part, that the City implement a "spill response plan" for all sewage and other spills that may discharge into its MS4.

(v) Permit Part VI.D.10.e.(i)(1) requires that the plan must identify agencies responsible for spill response and cleanup, phone numbers and e-mail addresses for contacts and shall further address coordination with spill response teams "throughout all appropriate departments, programs and agencies so that maximum water quality protection is provided."

(vi) Part VI.D.10.e.(i)(3-4) require the City to respond to spills for containment within four hours of become aware of the spill, or if on private property, within two hours of gaining

legal access to the property and reporting of spills that may endanger health or the environment to appropriate public health agencies and the Office of Emergency Services ("OES").

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

8. I am informed and believe that there are no dedicated state, federal or regional funds that are or will be available to pay for any of the new and/or upgraded programs and activities set forth in this Declaration.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 26 day of June, 2014, at Covina, California.

DECLARATION OF MOHAMMAD MOSTAHKAMI, P.E.

CITY OF DOWNEY

I, Mohammad Mostahkami, P.E., hereby declare and state as follows:

1. I am Director of Public Works for the City of Downey ("City"). In that capacity, I share responsibility for the compliance of the City with regard to the requirements of California Regional Water Quality Control Board, Los Angeles Region ("LARWQCB") Order No. R4-2012-0175 ("the Permit") as they apply to the City.

2. I have reviewed sections of the Permit and its attachments as set forth herein and am familiar with those provisions. I am also familiar with how the Permit changed requirements that were previously imposed on the City by the prior permit that had issued to the City by the LARWQCB in 2001 ("2001 Permit").

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

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

5. In Section 5 and Section 7 of this Test Claim, which contains exhibits to the test claim filed by the City and other permittees under the Permit, the specific sections of the Permit at issue in the test claim have been set forth. I hereby incorporate such provisions of Sections 5 and 7 into this declaration as though fully set forth herein.

6. The City has elected to participate in a Watershed Management Plan or Enhanced Watershed Management Plan ("WMP/EWMP") that will be designed to address, in whole or in

part, the "Total Maximum Daily Load (TMDL")" provisions of the Permit as well other requirements of the Permit, including those set forth in this Declaration.

7. Based on my understanding of the Permit, I believe that the Permit requires the City to undertake the following programs either directly or through the mechanism of a WMP/EWMP, which represent new programs and/or higher levels of service or the shifting of state responsibilities to the City, which activities were not required by the 2001 Permit and which are unique to local government entities:

a. Implementation of TMDLs:

(i) Part VI.E.1.c. requires the permittees to "comply with the applicable water quality-based effluent limitations and/or receiving water limitations contained in Attachments L through R, consistent with the assumptions and requirements of the WLAs established in the TMDLs, including implementation plans and schedules, where provided for in the State adoption and approval of the TMDL (40 CFR 122.44(d)(1)(vii)(B); Cal. Wat. Code § 13263(a))."

(ii) Attachment K to the Permit sets forth the TMDLs with which the City must comply.

(iii) Attachments L through R of the Permit set forth the requirements of each TMDL and its "waste load allocations " with which the City must comply.

(iv) Part VI.B of the Permit requires the City "to comply with the [Monitoring and Reporting Program] and future revisions thereto, in Attachment E of this Order or may, in coordination with an approved Watershed Management Program per Part VI.C, implement a customized monitoring program that achieves the five Primary Objectives set forth in Part II.A of Attachment E and includes the elements set forth in Part II.E of Attachment E."

(v) Attachment E to the Permit requires the monitoring program to include monitoring at "TMDL receiving water compliance points" and other "TMDL monitoring requirements specified in approved TMDL Monitoring Plans." (Permit, Attachment E, Parts II.E.1 through 3 and Part V; *see also* Attachment E. Parts VI.A.1.b.(iii) and (iv), VI.B.2, VI.C.1.a, VI.D.1.a, VIII.B.1.b.(ii), IX.A.5, IX.C.1.a, IX.E.1.a and b, IX.G.1.b., and IX.G.2.)

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

b. <u>Requirements related to Discharge Prohibitions for Non-Stormwater</u>:

(i) Permit Part III.A.1 prohibits certain non-stormwater discharges through the municipal separate storm sewer system ("MS4") to receiving waters. I have been advised that this requirement exceeds the requirements of the Clean Water Act ("CWA").

(ii) Part III.A.2 requires the City to employ best management practices ("BMPs") for discharges from essential non-emergency firefighting activities and, with regard to unpermitted discharges by drinking water suppliers, to work with those suppliers on the conditions of their discharges.

(iii) Part III.A.4.a requires the City to develop and implement procedures covering non-permitted discharges of non-stormwater to the City's MS4 in compliance with the requirements of Part III.A.4.a.(i-vi) of the Permit.

(iv) Part III.A.4.b. requires the City to develop and implement procedures to minimize the discharge of landscape irrigation water into the MS4, including to coordinate with local water purveyors to promote water use efficiency, use of drought tolerant vegetation and use of less toxic options for pest control and landscape management and to develop and implement an outreach and education program to minimize the discharge of irrigation water and associated pollutants.

(v) Part III.A.4.c. requires the City to evaluate monitoring data collected pursuant to the Permit's Monitoring and Reporting Program (Permit Attachment E) and other associated data and information to determine, among other things, if authorized or conditionally authorized non-stormwater discharges are a source of pollutants that may be causing or contributing to an exceedance of receiving water limitations and/or water quality based effluent limitations.

(vi) Part III.A.4.d. requires the City to take action to address such non-stormwater discharges if they are found to be such a source of pollutants, through effective prohibition, conditions, diversions or treatment. These tasks involve, among other things, meeting with non-stormwater dischargers, identifying and analyzing the nature of non-stormwater discharges, the development and implementation of discharge procedures, conducting public education efforts and evaluating monitoring data.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

c. **Public Information Program Requirements**:

(i) Permit Part VI.D.5.a. requires the City to "measurably increase" the knowledge of target audiences about the MS4, the adverse impacts of stormwater pollution on receiving waters and potential solutions to mitigate impacts, to "measurably change" waste disposal and stormwater pollution generation behavior by developing and encouraging implementation of "appropriate alternatives" and to "involve and engage a diversity of socio-economic groups and ethnic communities" to participate in stormwater pollution impact mitigation.

(ii) Permit Part VI.D.5.b. the City to implement Public Information and Participation Program activities by participating in either a County-wide, Watershed Group-sponsored or individual effort.

(iii) Permit Part VI.D.5.c. requires the City to provide a means for public reporting of clogged catch basin inlets and illicit discharges/dumping, faded or missing catch basin labels and general stormwater and non-stormwater pollution prevention information through a telephone hotline or in public information or government pages of the telephone book, identify staff or departments serving as contact persons and providing current, updated hotline information. The City is also required to organize events targeted to residents and population subgroups to "educate and involve the community in storm water and non-storm water pollution prevent and clean-up (e.g., education seminars, clean-ups, and community catch basin stenciling)."

(iv) Permit Part VI.D.5.d. requires the City to conduct stormwater pollution prevention public service announcements and advertising campaigns and provide public education materials on the proper handling of vehicle waste fluids, house, and construction waste, pesticides and fertilizers (including the use of integrated pest management practices), green waste and animal

wastes. This Part further requires the City (a) to distribute public education materials at automotive parts stores, home improvement centers, lumber yards and hardware and paint stores, landscaping and gardening centers and pet shops and feed stores, and (b) to maintain stormwater websites or provide links to stormwater websites via the City's website, which must include educational material and opportunities for public participation in stormwater pollution and cleanup activities and provide schools within the City's jurisdiction with materials to education K-12 students on stormwater pollution. In each of these requirements, Permit Part VID.5.d. requires the City to "use effective strategies to educate and involve ethnic communities in storm water pollution prevention through culturally effective methods."

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

d. <u>Inventory and Inspections of Industrial/Commercial Sources</u>:

(i) Permit Part VI.D.6.b. requires the City to track nurseries and nursery centers and to include various information for each facility on the inventory, including the industrial classification code, the status of exposure of materials to stormwater, the name of the receiving water, whether the facility is tributary to a waterbody listed as impaired under CWA section 303(d) where the facility generates pollutants for which the waterbody is impaired, and whether the facility has filed a "No Exposure Certification" ("NEC") with the State Water Resources

Control Board ("State Board"). The City is required to update the inventory at least annually, through collection of information through field activities over from other means.

(ii) Permit Part VI.D.6.d. requires the City to inspect restaurants, automotive service facilities, retail gasoline outlets and nurseries and nursery centers twice during the Permit term, including an inspection within two years after the Permit's effective date. In such inspection, the City is required, among other things, to evaluate whether the source is implementing effective source control BMPs for each corresponding activity and to require implementation of additional BMPs where stormwater from the facility discharged to the MS4 discharges to a Significant Ecological Area ("SEA"), a water body subject to TMDL provisions or a CWA section 303(d) listed waterbody.

(iii) Permit Part VI.D.6.e. requires the City to inspect industrial facilities, including those identified in 40 C.F.R. section 122.26(b)(14)(i-xi) and facilities identified in 40 C.F.R. section 122.26(d)(12)(iv)(C). In such inspections, the City is required to confirm that each facility has a current Waste Discharge Identification number for coverage under the State Board-issued General Industrial Activities Stormwater Permit or has applied for and received a no exposure certification, and to require implementation of additional BMPs where stormwater from the MS4 discharges to a waterbody subject to a TMDL or is a CWA section 303(d) listed impaired waterbodies. Additionally, for facilities discharging to MS4s that discharge to an SEA, the permittees, including the City, are required to require operators to implement additional pollutant-specific controls to reduce pollutants that are causing or contributing to exceedances of water quality standards.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

e. **Post-Construction BMP Requirements**:

(i) Permit Part VI.D.7.d.(iv)(1)(a) requires the City to implement a GIS or other electronic system for tracking projects that are required to have post-construction BMPs, including project identification, acreage, BMP type and description, BMP locations, dates of acceptance and maintenance agreements, inspection dates and summaries and corrective action.

(ii) Permit Part VI.D.7.d.(iv)(1)(b) requires the City to inspect all development sites upon completion of construction and before issuance of an occupancy certificate to ensure "proper installation" of Low Impact Development ("LID") measures, structural BMPs, treatment control BMPs and hydromodification control BMPs.

(iii) Permit Part VI.D.7.d.(iv)(1)(c) requires the City to develop a post-construction BMP checklist and to inspect at an interval of at least once every two years, City-operated post-construction BMPs to assess operations condition.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

f. Construction Site Requirements:

(i) Permit Part VI.D.8.g.(i) requires the City to develop an electronic system to inventory grading, encroachment, demolition, building or construction permits (or other municipal authorizations to move soil and/or construct or destruct that involves land disturbance).

(ii) Permit Part VI.D.8.g.(ii) requires the City to complete and update an inventory containing, among other items, contact information for a project, basic site information, the proximity of all water bodies, significant threats to water quality status, current construction phase where feasible, required inspection frequency, start and anticipated completion dates, whether the project has submitted a Notice of Intent to be covered under the State Board-issued General Construction Activities Stormwater Permit ("GCASP"), whether it has obtained GCASP coverage, the date the Erosion and Sediment Control Plan ("ESCP") was approved and post-construction structural BMPs subject to operation and maintenance requirements.

(iii) Permit Part VI.D.8.h requires the City to develop and implement review procedures for construction plan documents, inkling preparation and submittal of an appropriate ESCP, verification of GCASP or other permit coverage and other items. The Part further requires permittees, including the City, to develop and implement a checklist to conduct and document the review of each ESCP.

(iv) Permit Part VI.D.8.i.(i) requires the City to develop and implement technical standards for the selection, installation and maintenance of construction BMPs for all such sites within the City.

(v) Permit Part VI.D.8.i.(ii) requires that such BMPs be tailored to the risks posed by the project, as well as in minimum conformance with standards set forth in Permit Table 15, use of

BMPs meeting the requirements of Permit Tables 14 and 16 for constructions sites equal or greater than one acre or paving projects, detailed installation designs and cut sheets for use in ESCPs and maintenance expectations for each BMP or category of BMPs.

(vi) Permit PartVI.D.8.i.(iv) further requires that such technical standards must be "readily available" to the development community and must be "clearly referenced" within the City's stormwater or development services website, ordinance, permit approval process and/or ESCP review forms.

(vii) Permit Part VI.D.8.i.(v) requires local BMP technical standards to cover all items set forth in Tables 13, 14, 15 and 16 of the Permit.

(viii) Permit Part VI.D.8.j requires the City to inspect all construction sites of one acre or greater in size on the frequencies set forth in the Permit, which requires inspections prior to land disturbance activities, during active construction and at the conclusion of the project and as a condition to approving and/or issuing a Certificate of Occupancy. The frequency of inspections is set in addition in Table 17 of the Permit. As part of the inspection obligations, the permittees, including the City, must develop, implement and revise as necessary standard operating procedures that identify the inspection procedures to be followed by each permittee. Additionally, during inspections, the City must verify "active coverage" under the GCASP for specified projects; review the ESCP; inspect the site to determine whether all BMPs have been selected, installed, implemented and maintained; assess the appropriateness of planned and installed BMPs, and their effectiveness; visually observe and record non-stormwater discharge, potential illicit discharges and connections and potential discharge of pollutants in stormwater runoff; develop a written or electronic inspection report generated from a field inspection

checklist; and track the number of inspections for the site to ensure that it meets the minimum requirements of Permit Table 17.

(ix) Permit Part VI.D.8.l.(i-ii) requires the City to ensure training for "all staff whose primary job duties are related to implementing the construction storm water program," including plan reviewers and permitting staff with regard to the "technical review of local erosion and sediment control ordinance, local BMP technical standards, ESCP requirements, and the key objectives of the State Water Board QSD program, erosion sediment control/storm water inspectors in inspection procedures consistent with various standards. Additionally, if outside parties conduct inspections or review plans, the City is required to ensure that such staff are trained under the same requirements.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

g. <u>Public Agency Requirements</u>:

(i) Permit Part VI.D.9.c. requires the City to maintain an "updated inventory" of all permittee-owned or operated facilities that are potential sources of stormwater pollution, including 24 separate categories of facilities that are required to be in the inventory. The inventory must include the name and address of the facility, contact information, a narrative description of activities performed and potential pollution sources, coverage under any individual or general NPDES permits or waivers. The inventory must be updated at least once during the

five-year term of the Permit with information collected through field activities or other means.

(ii) Permit Part VI.D.9.d.(i) requires the City to develop an inventory of "retrofitting opportunities" in areas of existing development.

(iii) Permit Part VI.D.9.d.(ii-iii) requires the City to screen existing areas of development "to identify candidate areas for retrofitting using watershed models or other screening level tools" and then evaluate and rank areas of existing development to prioritize retrofitting candidates.

(iv) Permit Part VI.D.9.d.(iv) requires the City to consider the results of the evaluation by giving "highly feasible" projects a "high priority" to implement source control and treatment control BMPs in the their Storm Water Management Plan ("SWMP") and consider high priority retrofit projects as candidates for off-site mitigation for new development and redevelopment projects.

(v) Permit Part VI.D.9.d.(v) requires the City to cooperate with private landowners to "encourage site specific retrofitting projects." In such cooperation, demonstration retrofit projects, retrofits on public lands and easements, education and outreach, subsidies for retrofit projects, requiring retrofit projects as enforcement, mitigation or ordinance compliance, public and private partnerships, fees for existing discharges to the MS4 and reduction of such fees for retrofit implementation must be considered.

(vi) Permit Part VI.D.9.g.(ii) requires the City to implement an Integrated Pest Management ("IPM") program, including restrictions on the use of pesticides, restricting treatments only to remove the target organism, selection of pest controls that minimize risks to human health, "beneficial non-target organisms" and the environment, partnering with other

agencies and organizations to "encourage" the use of IPM and adopt and "verifiably implement" policies, procedures and/or ordinances requiring the minimization of pesticide use and encouraging the use of IPM techniques for public agency facilities and activities. Additionally, the City must commit and schedule to reduce the use of pesticides that cause impairments of surface waters by preparing and updating annually an inventory of pesticides, quantify pesticide use by staff and contractors and demonstrate implementation of IPM alternatives where feasible to reduce pesticide use.

(vii) Permit Part VI.D.9.h.(vii) requires permittees in areas not subject to a Trash TMDL, to install trash excluders, or equivalent devices, on or in catch basins or outfalls, except where such installation would cause flooding, unless lack of maintenance that causes the flooding. Permittees, including the City, may also employ alternative or enhanced BMPs that "provide substantially equivalent removal of trash." If alternative means are employed, the City must demonstrate that such BMPs "provide equivalent trash removal performance as excluders."

(viii) Permit Part VI.D.9.k.(ii) requires the City to train all employees and contractors "who use or have the potential to use pesticides or fertilizers" that address the potential for pesticide-related surface water toxicity, in the proper use, handling, and disposal of pesticides, least toxic methods of pest prevention and control, including IPM and the reduction of pesticide use.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years

during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

h. Illicit Connection and Discharge Requirements:

(i) Permit Part VI.D.10.d.(iii) requires the City to "ensure that signage adjacent to open channels . . . include information regarding dumping prohibitions and public reporting of illicit discharges."

(ii) Permit Part VI.D.10.d.(iv) requires the City to develop and maintain written procedures that document how complaint calls are received, documented and tracked "to ensure that all complaints are adequately addressed." Such procedures must be "evaluated to determine whether changes or updates are needed to ensure that the procedures adequately document the methods employed by the Permittee."

(iii) Permit Part VI.D.10.d.(v) the City to maintain documentation of complaint calls and to record the location of the reported spill or illicit discharge and the action undertaken in response.

(iv) Permit Part VI.D.10.e.(i) requires, in pertinent part, that the City implement a "spill response plan" for all sewage and other spills that may discharge into its MS4.

(v) Permit Part VI.D.10.e.(i)(1) requires that the plan must identify agencies responsible for spill response and cleanup, phone numbers and e-mail addresses for contacts and shall further address coordination with spill response teams "throughout all appropriate departments, programs and agencies so that maximum water quality protection is provided."

(vi) Part VI.D.10.e.(i)(3-4) require the City to respond to spills for containment within four hours of become aware of the spill, or if on private property, within two hours of gaining

legal access to the property and reporting of spills that may endanger health or the environment to appropriate public health agencies and the Office of Emergency Services ("OES").

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 26th day of June, 2014 at Downey, California.

DECLARATION OF RENE BOBADILLA

CITY OF HUNTINGTON PARK

I, Rene Bobadilla, hereby declare and state as follows:

1. I am City Manager for the City of Huntington Park ("City"). In that capacity, I share responsibility for the compliance of the City with regard to the requirements of California Regional Water Quality Control Board, Los Angeles Region ("LARWQCB") Order No. R4-2012-0175 ("the Permit") as they apply to the City.

2. I have reviewed sections of the Permit and its attachments as set forth herein and am familiar with those provisions. I am also familiar with how the Permit changed requirements that were previously imposed on the City by the prior permit that had issued to the City by the LARWQCB in 2001 ("2001 Permit").

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

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

5. In Section 5 and Section 7 of this Test Claim, which contains exhibits to the test claim filed by the City and other permittees under the Permit, the specific sections of the Permit at issue in the test claim have been set forth. I hereby incorporate such provisions of Sections 5 and 7 into this declaration as though fully set forth herein.

6. The City has elected to participate in a Watershed Management Plan or Enhanced Watershed Management Plan ("WMP/EWMP") that will be designed to address, in whole or in

part, the "Total Maximum Daily Load (TMDL")" provisions of the Permit as well other requirements of the Permit, including those set forth in this Declaration.

7. Based on my understanding of the Permit, I believe that the Permit requires the City to undertake the following programs either directly or through the mechanism of a WMP/EWMP, which represent new programs and/or higher levels of service or the shifting of state responsibilities to the City, which activities were not required by the 2001 Permit and which are unique to local government entities:

a. Implementation of TMDLs:

(i) Part VI.E.1.c. requires the permittees to "comply with the applicable water quality-based effluent limitations and/or receiving water limitations contained in Attachments L through R, consistent with the assumptions and requirements of the WLAs established in the TMDLs, including implementation plans and schedules, where provided for in the State adoption and approval of the TMDL (40 CFR 122.44(d)(1)(vii)(B); Cal. Wat. Code § 13263(a))."

(ii) Attachment K to the Permit sets forth the TMDLs with which the City must comply.

(iii) Attachments L through R of the Permit set forth the requirements of each TMDL and its "waste load allocations " with which the City must comply.

(iv) Part VI.B of the Permit requires the City "to comply with the [Monitoring and Reporting Program] and future revisions thereto, in Attachment E of this Order or may, in coordination with an approved Watershed Management Program per Part VI.C, implement a customized monitoring program that achieves the five Primary Objectives set forth in Part II.A of Attachment E and includes the elements set forth in Part II.E of Attachment E."

(v) Attachment E to the Permit requires the monitoring program to include monitoring at "TMDL receiving water compliance points" and other "TMDL monitoring requirements specified in approved TMDL Monitoring Plans." (Permit, Attachment E, Parts II.E.1 through 3 and Part V; *see also* Attachment E. Parts VI.A.1.b.(iii) and (iv), VI.B.2, VI.C.1.a, VI.D.1.a, VIII.B.1.b.(ii), IX.A.5, IX.C.1.a, IX.E.1.a and b, IX.G.1.b., and IX.G.2.)

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

b. Requirements related to Discharge Prohibitions for Non-Stormwater:

(i) Permit Part III.A.1 prohibits certain non-stormwater discharges through the municipal separate storm sewer system ("MS4") to receiving waters. I have been advised that this requirement exceeds the requirements of the Clean Water Act ("CWA").

(ii) Part III.A.2 requires the City to employ best management practices ("BMPs") for discharges from essential non-emergency firefighting activities and, with regard to unpermitted discharges by drinking water suppliers, to work with those suppliers on the conditions of their discharges.

(iii) Part III.A.4.a requires the City to develop and implement procedures covering non-permitted discharges of non-stormwater to the City's MS4 in compliance with the requirements of Part III.A.4.a.(i-vi) of the Permit.

(iv) Part III.A.4.b. requires the City to develop and implement procedures to minimize the discharge of landscape irrigation water into the MS4, including to coordinate with local water purveyors to promote water use efficiency, use of drought tolerant vegetation and use of less toxic options for pest control and landscape management and to develop and implement an outreach and education program to minimize the discharge of irrigation water and associated pollutants.

(v) Part III.A.4.c. requires the City to evaluate monitoring data collected pursuant to the Permit's Monitoring and Reporting Program (Permit Attachment E) and other associated data and information to determine, among other things, if authorized or conditionally authorized non-stormwater discharges are a source of pollutants that may be causing or contributing to an exceedance of receiving water limitations and/or water quality based effluent limitations.

(vi) Part III.A.4.d. requires the City to take action to address such non-stormwater discharges if they are found to be such a source of pollutants, through effective prohibition, conditions, diversions or treatment. These tasks involve, among other things, meeting with non-stormwater dischargers, identifying and analyzing the nature of non-stormwater discharges, the development and implementation of discharge procedures, conducting public education efforts and evaluating monitoring data.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur iu excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

c. Public Information Program Requirements:

(i) Permit Part VI.D.5.a. requires the City to "measurably increase" the knowledge of target audiences about the MS4, the adverse impacts of stormwater pollution on receiving waters and potential solutions to mitigate impacts, to "measurably change" waste disposal and stormwater pollution generation behavior by developing and encouraging implementation of "appropriate alternatives" and to "involve and engage a diversity of socio-economic groups and ethnic communities" to participate in stormwater pollution impact mitigation.

(ii) Permit Part VI.D.5.b. the City to implement Public Information and Participation Program activities by participating in either a County-wide, Watershed Group-sponsored or individual effort.

(iii) Permit Part VI.D.5.c. requires the City to provide a means for public reporting of clogged catch basin inlets and illicit discharges/dumping, faded or missing catch basin labels and general stormwater and non-stormwater pollution prevention information through a telephone hotline or in public information or government pages of the telephone book, identify staff or departments serving as contact persons and providing current, updated hotline information. The City is also required to organize events targeted to residents and population subgroups to "educate and involve the community in storm water and non-storm water pollution prevent and clean-up (e.g., education seminars, clean-ups, and community catch basin stenciling)."

(iv) Permit Part VI.D.5.d. requires the City to conduct stormwater pollution prevention public service announcements and advertising campaigns and provide public education materials on the proper handling of vehicle waste fluids, house, and construction waste, pesticides and fertilizers (including the use of integrated pest management practices), green waste and animal

wastes. This Part further requires the City (a) to distribute public education materials at automotive parts stores, home improvement centers, lumber yards and hardware and paint stores, landscaping and gardening centers and pet shops and feed stores, and (b) to maintain stormwater websites or provide links to stormwater websites via the City's website, which must include educational material and opportunities for public participation in stormwater pollution and cleanup activities and provide schools within the City's jurisdiction with materials to education K-12 students on stormwater pollution. In each of these requirements, Permit Part VID.5.d. requires the City to "use effective strategies to educate and involve ethnic communities in storm water pollution prevention through culturally effective methods."

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

d. Inventory and Inspections of Industrial/Commercial Sources:

(i) Permit Part VI.D.6.b. requires the City to track nurseries and nursery centers and to include various information for each facility on the inventory, including the industrial classification code, the status of exposure of materials to stormwater, the name of the receiving water, whether the facility is tributary to a waterbody listed as impaired under CWA section 303(d) where the facility generates pollutants for which the waterbody is impaired, and whether the facility has filed a "No Exposure Certification" ("NEC") with the State Water Resources

Control Board ("State Board"). The City is required to update the inventory at least annually, through collection of information through field activities over from other means.

(ii) Permit Part VI.D.6.d. requires the City to inspect restaurants, automotive service facilities, retail gasoline outlets and nurseries and nursery centers twice during the Permit term, including an inspection within two years after the Permit's effective date. In such inspection, the the City is required, among other things, to evaluate whether the source is implementing effective source control BMPs for each corresponding activity and to require implementation of additional BMPs where stormwater from the facility discharged to the MS4 discharges to a Significant Ecological Area ("SEA"), a water body subject to TMDL provisions or a CWA section 303(d) listed waterbody.

(iii) Permit Part VI.D.6.e. requires the City to inspect industrial facilities, including those identified in 40 C.F.R. section 122.26(b)(14)(i-xi) and facilities identified in 40 C.F.R. section 122.26(d)(12)(iv)(C). In such inspections, the City is required to confirm that each facility has a current Waste Discharge Identification number for coverage under the State Board-issued General Industrial Activities Stormwater Permit or has applied for and received a no exposure certification, and to require implementation of additional BMPs where stormwater from the MS4 discharges to a waterbody subject to a TMDL or is a CWA section 303(d) listed impaired waterbodies. Additionally, for facilities discharging to MS4s that discharge to an SEA, the permittees, including the City, are required to require operators to implement additional pollutant-specific controls to reduce pollutants that are causing or contributing to exceedances of water quality standards.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

e. Post-Construction BMP Requirements:

(i) Permit Part VI.D.7.d.(iv)(1)(a) requires the City to implement a GIS or other electronic system for tracking projects that are required to have post-construction BMPs, including project identification, acreage, BMP type and description, BMP locations, dates of acceptance and maintenance agreements, inspection dates and summaries and corrective action.

(ii) Permit Part VI.D.7.d.(iv)(1)(b) requires the City to inspect all development sites upon completion of construction and before issuance of an occupancy certificate to ensure "proper installation" of Low Impact Development ("LID") measures, structural BMPs, treatment control BMPs and hydromodification control BMPs.

(iii) Permit Part VI.D.7.d.(iv)(1)(c) requires the City to develop a post-construction BMP checklist and to inspect at an interval of at least once every two years, City-operated post-construction BMPs to assess operations condition.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

f. Construction Site Requirements:

(i) Permit Part VI.D.8.g.(i) requires the City to develop an electronic system to inventory grading, encroachment, demolition, building or construction permits (or other municipal authorizations to move soil and/or construct or destruct that involves land disturbance).

(ii) Permit Part VI.D.8.g.(ii) requires the City to complete and update an inventory containing, among other items, contact information for a project, basic site information, the proximity of all water bodies, significant threats to water quality status, current construction phase where feasible, required inspection frequency, start and anticipated completion dates, whether the project has submitted a Notice of Intent to be covered under the State Board-issued General Construction Activities Stormwater Permit ("GCASP"), whether it has obtained GCASP coverage, the date the Erosion and Sediment Control Plan ("ESCP") was approved and post-construction structural BMPs subject to operation and maintenance requirements.

(iii) Permit Part VI.D.8.h requires the City to develop and implement review procedures for construction plan documents, inkling preparation and submittal of an appropriate ESCP, verification of GCASP or other permit coverage and other items. The Part further requires permittees, including the City, to develop and implement a checklist to conduct and document the review of each ESCP.

(iv) Permit Part VI.D.8.i.(i) requires the City to develop and implement technical standards for the selection, installation and maintenance of construction BMPs for all such sites within the City.

(v) Permit Part VI.D.8.i.(ii) requires that such BMPs be tailored to the risks posed by the project, as well as in minimum conformance with standards set forth in Permit Table 15, use of

BMPs meeting the requirements of Permit Tables 14 and 16 for constructions sites equal or greater than one acre or paving projects, detailed installation designs and cut sheets for use in ESCPs and maintenance expectations for each BMP or category of BMPs.

(vi) Permit PartVI.D.8.i.(iv) further requires that such technical standards must be "readily available" to the development community and must be "clearly referenced" within the City's stormwater or development services website, ordinance, permit approval process and/or ESCP review forms.

(vii) Permit Part VI.D.8.i.(v) requires local BMP technical standards to cover all items set forth in Tables 13, 14, 15 and 16 of the Permit.

(viii) Permit Part VI.D.8.j requires the City to inspect all construction sites of one acre or greater in size on the frequencies set forth in the Permit, which requires inspections prior to land disturbance activities, during active construction and at the conclusion of the project and as a condition to approving and/or issuing a Certificate of Occupancy. The frequency of inspections is set in addition in Table 17 of the Permit. As part of the inspection obligations, the permittees, including the City, must develop, implement and revise as necessary standard operating procedures that identify the inspection procedures to be followed by each permittee. Additionally, during inspections, the City must verify "active coverage" under the GCASP for specified projects; review the ESCP; inspect the site to determine whether all BMPs have been selected, installed, implemented and maintained; assess the appropriateness of planned and installed BMPs, and their effectiveness; visually observe and record non-stormwater discharge, potential illicit discharges and connections and potential discharge of pollutants in stormwater runoff; develop a written or electronic inspection report generated from a field inspection

checklist; and track the number of inspections for the site to ensure that it meets the minimum requirements of Permit Table 17.

(ix) Permit Part VI.D.8.l.(i-ii) requires the City to ensure training for "all staff whose primary job duties are related to implementing the construction storm water program," including plan reviewers and permitting staff with regard to the "technical review of local erosion and sediment control ordinance, local BMP technical standards, ESCP requirements, and the key objectives of the State Water Board QSD program, erosion sediment control/storm water inspectors in inspection procedures consistent with various standards. Additionally, if outside parties conduct inspections or review plans, the City is required to ensure that such staff are trained under the same requirements.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

g. Public Agency Requirements:

(i) Permit Part VI.D.9.c. requires the City to maintain an "updated inventory" of all permittee-owned or operated facilities that are potential sources of stormwater pollution, including 24 separate categories of facilities that are required to be in the inventory. The inventory must include the name and address of the facility, contact information, a narrative description of activities performed and potential pollution sources, coverage under any individual or general NPDES permits or waivers. The inventory must be updated at least once during the

five-year term of the Permit with information collected through field activities or other means.

(ii) Permit Part VI.D.9.d.(i) requires the City to develop an inventory of "retrofitting opportunities" in areas of existing development.

(iii) Permit Part VI.D.9.d.(ii-iii) requires the City to screen existing areas of development "to identify candidate areas for retrofitting using watershed models or other screening level tools" and then evaluate and rank areas of existing development to prioritize retrofitting candidates.

(iv) Permit Part VI.D.9.d.(iv) requires the City to consider the results of the evaluation by giving "highly feasible" projects a "high priority" to implement source control and treatment control BMPs in the their Storm Water Management Plan ("SWMP") and consider high priority retrofit projects as candidates for off-site mitigation for new development and redevelopment projects.

(v) Permit Part VI.D.9.d.(v) requires the City to cooperate with private landowners to "encourage site specific retrofitting projects." In such cooperation, demonstration retrofit projects, retrofits on public lands and easements, education and outreach, subsidies for retrofit projects, requiring retrofit projects as enforcement, mitigation or ordinance compliance, public and private partnerships, fees for existing discharges to the MS4 and reduction of such fees for retrofit implementation must be considered.

(vi) Permit Part VI.D.9.g.(ii) requires the City to implement an Integrated Pest Management ("IPM") program, including restrictions on the use of pesticides, restricting treatments only to remove the target organism, selection of pest controls that minimize risks to human health, "beneficial non-target organisms" and the environment, partnering with other

agencies and organizations to "encourage" the use of IPM and adopt and "verifiably implement" policies, procedures and/or ordinances requiring the minimization of pesticide use and encouraging the use of IPM techniques for public agency facilities and activities. Additionally, the City must commit and schedule to reduce the use of pesticides that cause impairments of surface waters by preparing and updating annually an inventory of pesticides, quantify pesticide use by staff and contractors and demonstrate implementation of IPM alternatives where feasible to reduce pesticide use.

(vii) Permit Part VI.D.9.h.(vii) requires permittees in areas not subject to a Trash TMDL, to install trash excluders, or equivalent devices, on or in catch basins or outfalls, except where such installation would cause flooding, unless lack of maintenance that causes the flooding. Permittees, including the City, may also employ alternative or enhanced BMPs that "provide substantially equivalent removal of trash." If alternative means are employed, the City must demonstrate that such BMPs "provide equivalent trash removal performance as excluders."

(viii) Permit Part VI.D.9.k.(ii) requires the City to train all employees and contractors "who use or have the potential to use pesticides or fertilizers" that address the potential for pesticide-related surface water toxicity, in the proper use, handling, and disposal of pesticides, least toxic methods of pest prevention and control, including IPM and the reduction of pesticide use.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years

during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

h. Illicit Connection and Discharge Requirements:

(i) Permit Part VI.D.10.d.(iii) requires the City to "ensure that signage adjacent to open channels . . . include information regarding dumping prohibitions and public reporting of illicit discharges."

(ii) Permit Part VI.D.10.d.(iv) requires the City to develop and maintain written procedures that document how complaint calls are received, documented and tracked "to ensure that all complaints are adequately addressed." Such procedures must be "evaluated to determine whether changes or updates are needed to ensure that the procedures adequately document the methods employed by the Permittee."

(iii) Permit Part VI.D.10.d.(v) the City to maintain documentation of complaint calls and to record the location of the reported spill or illicit discharge and the action undertaken in response.

(iv) Permit Part VI.D.10.e.(i) requires, in pertinent part, that the City implement a "spill response plan" for all sewage and other spills that may discharge into its MS4.

(v) Permit Part VI.D.10.e.(i)(1) requires that the plan must identify agencies responsible for spill response and cleanup, phone numbers and e-mail addresses for contacts and shall further address coordination with spill response teams "throughout all appropriate departments, programs and agencies so that maximum water quality protection is provided."

(vi) Part VI.D.10.e.(i)(3-4) require the City to respond to spills for containment within four hours of become aware of the spill, or if on private property, within two hours of gaining

legal access to the property and reporting of spills that may endanger health or the environment to appropriate public health agencies and the Office of Emergency Services ("OES").

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 26 day of June, 2014, at Huntington Park, California.

DECLARATION OF LISA RAPP

CITY OF LAKEWOOD

I, Lisa Rapp, hereby declare and state as follows:

1. I am the Public Works Director of the City of Lakewood ("City"). In that capacity, I share responsibility for the compliance of the City with regard to the requirements of California Regional Water Quality Control Board, Los Angeles Region ("LARWQCB") Order No. R4-2012-0175 ("the Permit") as they apply to the City.

2. I have reviewed sections of the Permit and its attachments as set forth herein and am familiar with those provisions. I am also familiar with how the Permit changed requirements that were previously imposed on the City by the prior permit that had issued to the City by the LARWQCB in 2001 ("2001 Permit").

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

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

5. In Section 5 and Section 7 of this Test Claim, which contains exhibits to the test claim filed by the City and other permittees under the Permit, the specific sections of the Permit at issue in the test claim have been set forth. I hereby incorporate such provisions of Sections 5 and 7 into this declaration as though fully set forth herein.

6. The City has elected to participate in a Watershed Management Plan or Enhanced Watershed Management Plan ("WMP/EWMP") that will be designed to address, in whole or in

part, the "Total Maximum Daily Load (TMDL")" provisions of the Permit as well other requirements of the Permit, including those set forth in this Declaration.

7. Based on my understanding of the Permit, I believe that the Permit requires the City to undertake the following programs either directly or through the mechanism of a WMP/EWMP, which represent new programs and/or higher levels of service or the shifting of state responsibilities to the City, which activities were not required by the 2001 Permit and which are unique to local government entities:

a. Implementation of TMDLs:

(i) Part VI.E.1.c. requires the permittees to "comply with the applicable water quality-based effluent limitations and/or receiving water limitations contained in Attachments L through R, consistent with the assumptions and requirements of the WLAs established in the TMDLs, including implementation plans and schedules, where provided for in the State adoption and approval of the TMDL (40 CFR 122.44(d)(1)(vii)(B); Cal. Wat. Code § 13263(a))."

(ii) Attachment K to the Permit sets forth the TMDLs with which the City must comply.

(iii) Attachments L through R of the Permit set forth the requirements of each TMDL and its "waste load allocations " with which the City must comply.

(iv) Part VI.B of the Permit requires the City "to comply with the [Monitoring and Reporting Program] and future revisions thereto, in Attachment E of this Order or may, in coordination with an approved Watershed Management Program per Part VI.C, implement a customized monitoring program that achieves the five Primary Objectives set forth in Part II.A of Attachment E and includes the elements set forth in Part II.E of Attachment E."

(v) Attachment E to the Permit requires the monitoring program to include monitoring at "TMDL receiving water compliance points" and other "TMDL monitoring requirements specified in approved TMDL Monitoring Plans." (Permit, Attachment E, Parts II.E.1 through 3 and Part V; *see also* Attachment E. Parts VI.A.1.b.(iii) and (iv), VI.B.2, VI.C.1.a, VI.D.1.a, VIII.B.1.b.(ii), IX.A.5, IX.C.1.a, IX.E.1.a and b, IX.G.1.b., and IX.G.2.)

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

b. <u>Requirements related to Discharge Prohibitions for Non-Stormwater</u>:

(i) Permit Part III.A.1 prohibits certain non-stormwater discharges through the municipal separate storm sewer system ("MS4") to receiving waters. I have been advised that this requirement exceeds the requirements of the Clean Water Act ("CWA").

(ii) Part III.A.2 requires the City to employ best management practices ("BMPs") for discharges from essential non-emergency firefighting activities and, with regard to unpermitted discharges by drinking water suppliers, to work with those suppliers on the conditions of their discharges.

(iii) Part III.A.4.a requires the City to develop and implement procedures covering non-permitted discharges of non-stormwater to the City's MS4 in compliance with the requirements of Part III.A.4.a.(i-vi) of the Permit.

(iv) Part III.A.4.b. requires the City to develop and implement procedures to minimize the discharge of landscape irrigation water into the MS4, including to coordinate with local water purveyors to promote water use efficiency, use of drought tolerant vegetation and use of less toxic options for pest control and landscape management and to develop and implement an outreach and education program to minimize the discharge of irrigation water and associated pollutants.

(v) Part III.A.4.c. requires the City to evaluate monitoring data collected pursuant to the Permit's Monitoring and Reporting Program (Permit Attachment E) and other associated data and information to determine, among other things, if authorized or conditionally authorized non-stormwater discharges are a source of pollutants that may be causing or contributing to an exceedance of receiving water limitations and/or water quality based effluent limitations.

(vi) Part III.A.4.d. requires the City to take action to address such non-stormwater discharges if they are found to be such a source of pollutants, through effective prohibition, conditions, diversions or treatment. These tasks involve, among other things, meeting with non-stormwater dischargers, identifying and analyzing the nature of non-stormwater discharges, the development and implementation of discharge procedures, conducting public education efforts and evaluating monitoring data.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

c. <u>Public Information Program Requirements</u>:

(i) Permit Part VI.D.5.a. requires the City to "measurably increase" the knowledge of target audiences about the MS4, the adverse impacts of stormwater pollution on receiving waters and potential solutions to mitigate impacts, to "measurably change" waste disposal and stormwater pollution generation behavior by developing and encouraging implementation of "appropriate alternatives" and to "involve and engage a diversity of socio-economic groups and ethnic communities" to participate in stormwater pollution impact mitigation.

(ii) Permit Part VI.D.5.b. the City to implement Public Information and Participation Program activities by participating in either a County-wide, Watershed Group-sponsored or individual effort.

(iii) Permit Part VI.D.5.c. requires the City to provide a means for public reporting of clogged catch basin inlets and illicit discharges/dumping, faded or missing catch basin labels and general stormwater and non-stormwater pollution prevention information through a telephone hotline or in public information or government pages of the telephone book, identify staff or departments serving as contact persons and providing current, updated hotline information. The City is also required to organize events targeted to residents and population subgroups to "educate and involve the community in storm water and non-storm water pollution prevent and clean-up (e.g., education seminars, clean-ups, and community catch basin stenciling)."

(iv) Permit Part VI.D.5.d. requires the City to conduct stormwater pollution prevention public service announcements and advertising campaigns and provide public education materials on the proper handling of vehicle waste fluids, house, and construction waste, pesticides and fertilizers (including the use of integrated pest management practices), green waste and animal

wastes. This Part further requires the City (a) to distribute public education materials at automotive parts stores, home improvement centers, lumber yards and hardware and paint stores, landscaping and gardening centers and pet shops and feed stores, and (b) to maintain stormwater websites or provide links to stormwater websites via the City's website, which must include educational material and opportunities for public participation in stormwater pollution and cleanup activities and provide schools within the City's jurisdiction with materials to education K-12 students on stormwater pollution. In each of these requirements, Permit Part VID.5.d. requires the City to "use effective strategies to educate and involve ethnic communities in storm water pollution prevention through culturally effective methods."

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

d. <u>Inventory and Inspections of Industrial/Commercial Sources</u>:

(i) Permit Part VI.D.6.b. requires the City to track nurseries and nursery centers and to include various information for each facility on the inventory, including the industrial classification code, the status of exposure of materials to stormwater, the name of the receiving water, whether the facility is tributary to a waterbody listed as impaired under CWA section 303(d) where the facility generates pollutants for which the waterbody is impaired, and whether the facility has filed a "No Exposure Certification" ("NEC") with the State Water Resources

Control Board ("State Board"). The City is required to update the inventory at least annually, through collection of information through field activities over from other means.

(ii) Permit Part VI.D.6.d. requires the City to inspect restaurants, automotive service facilities, retail gasoline outlets and nurseries and nursery centers twice during the Permit term, including an inspection within two years after the Permit's effective date. In such inspection, the City is required, among other things, to evaluate whether the source is implementing effective source control BMPs for each corresponding activity and to require implementation of additional BMPs where stormwater from the facility discharged to the MS4 discharges to a Significant Ecological Area ("SEA"), a water body subject to TMDL provisions or a CWA section 303(d) listed waterbody.

(iii) Permit Part VI.D.6.e. requires the City to inspect industrial facilities, including those identified in 40 C.F.R. section 122.26(b)(14)(i-xi) and facilities identified in 40 C.F.R. section 122.26(d)(12)(iv)(C). In such inspections, the City is required to confirm that each facility has a current Waste Discharge Identification number for coverage under the State Board-issued General Industrial Activities Stormwater Permit or has applied for and received a no exposure certification, and to require implementation of additional BMPs where stormwater from the MS4 discharges to a waterbody subject to a TMDL or is a CWA section 303(d) listed impaired waterbodies. Additionally, for facilities discharging to MS4s that discharge to an SEA, the permittees, including the City, are required to require operators to implement additional pollutant-specific controls to reduce pollutants that are causing or contributing to exceedances of water quality standards.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

e. Post-Construction BMP Requirements:

(i) Permit Part VI.D.7.d.(iv)(1)(a) requires the City to implement a GIS or other electronic system for tracking projects that are required to have post-construction BMPs, including project identification, acreage, BMP type and description, BMP locations, dates of acceptance and maintenance agreements, inspection dates and summaries and corrective action.

(ii) Permit Part VI.D.7.d.(iv)(1)(b) requires the City to inspect all development sites upon completion of construction and before issuance of an occupancy certificate to ensure "proper installation" of Low Impact Development ("LID") measures, structural BMPs, treatment control BMPs and hydromodification control BMPs.

(iii) Permit Part VI.D.7.d.(iv)(1)(c) requires the City to develop a post-construction BMP checklist and to inspect at an interval of at least once every two years, City-operated post-construction BMPs to assess operations condition.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

f. Construction Site Requirements:

(i) Permit Part VI.D.8.g.(i) requires the City to develop an electronic system to inventory grading, encroachment, demolition, building or construction permits (or other municipal authorizations to move soil and/or construct or destruct that involves land disturbance).

(ii) Permit Part VI.D.8.g.(ii) requires the City to complete and update an inventory containing, among other items, contact information for a project, basic site information, the proximity of all water bodies, significant threats to water quality status, current construction phase where feasible, required inspection frequency, start and anticipated completion dates, whether the project has submitted a Notice of Intent to be covered under the State Board-issued General Construction Activities Stormwater Permit ("GCASP"), whether it has obtained GCASP coverage, the date the Erosion and Sediment Control Plan ("ESCP") was approved and post-construction structural BMPs subject to operation and maintenance requirements.

(iii) Permit Part VI.D.8.h requires the City to develop and implement review procedures for construction plan documents, including preparation and submittal of an appropriate ESCP, verification of GCASP or other permit coverage and other items. The Part further requires permittees, including the City, to develop and implement a checklist to conduct and document the review of each ESCP.

(iv) Permit Part VI.D.8.i.(i) requires the City to develop and implement technical standards for the selection, installation and maintenance of construction BMPs for all such sites within the City.

(v) Permit Part VI.D.8.i.(ii) requires that such BMPs be tailored to the risks posed by the project, as well as in minimum conformance with standards set forth in Permit Table 15, use of

BMPs meeting the requirements of Permit Tables 14 and 16 for constructions sites equal or greater than one acre or paving projects, detailed installation designs and cut sheets for use in ESCPs and maintenance expectations for each BMP or category of BMPs.

(vi) Permit PartVI.D.8.i.(iv) further requires that such technical standards must be "readily available" to the development community and must be "clearly referenced" within the City's stormwater or development services website, ordinance, permit approval process and/or ESCP review forms.

(vii) Permit Part VI.D.8.i.(v) requires local BMP technical standards to cover all items set forth in Tables 13, 14, 15 and 16 of the Permit.

(viii) Permit Part VI.D.8.j requires the City to inspect all construction sites of one acre or greater in size on the frequencies set forth in the Permit, which requires inspections prior to land disturbance activities, during active construction and at the conclusion of the project and as a condition to approving and/or issuing a Certificate of Occupancy. The frequency of inspections is set in addition in Table 17 of the Permit. As part of the inspection obligations, the permittees, including the City, must develop, implement and revise as necessary standard operating procedures that identify the inspection procedures to be followed by each permittee. Additionally, during inspections, the City must verify "active coverage" under the GCASP for specified projects; review the ESCP; inspect the site to determine whether all BMPs have been selected, installed, implemented and maintained; assess the appropriateness of planned and installed BMPs, and their effectiveness; visually observe and record non-stormwater discharge, potential illicit discharges and connections and potential discharge of pollutants in stormwater runoff; develop a written or electronic inspection report generated from a field inspection

checklist; and track the number of inspections for the site to ensure that it meets the minimum requirements of Permit Table 17.

(ix) Permit Part VI.D.8.l.(i-ii) requires the City to ensure training for "all staff whose primary job duties are related to implementing the construction storm water program," including plan reviewers and permitting staff with regard to the "technical review of local erosion and sediment control ordinance, local BMP technical standards, ESCP requirements, and the key objectives of the State Water Board QSD program, erosion sediment control/storm water inspectors in inspection procedures consistent with various standards. Additionally, if outside parties conduct inspections or review plans, the City is required to ensure that such staff are trained under the same requirements.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

g. <u>Public Agency Requirements</u>:

(i) Permit Part VI.D.9.c. requires the City to maintain an "updated inventory" of all permittee-owned or operated facilities that are potential sources of stormwater pollution, including 24 separate categories of facilities that are required to be in the inventory. The inventory must include the name and address of the facility, contact information, a narrative description of activities performed and potential pollution sources, coverage under any individual or general NPDES permits or waivers. The inventory must be updated at least once during the

five-year term of the Permit with information collected through field activities or other means.

(ii) Permit Part VI.D.9.d.(i) requires the City to develop an inventory of "retrofitting opportunities" in areas of existing development.

(iii) Permit Part VI.D.9.d.(ii-iii) requires the City to screen existing areas of development "to identify candidate areas for retrofitting using watershed models or other screening level tools" and then evaluate and rank areas of existing development to prioritize retrofitting candidates.

(iv) Permit Part VI.D.9.d.(iv) requires the City to consider the results of the evaluation by giving "highly feasible" projects a "high priority" to implement source control and treatment control BMPs in the their Storm Water Management Plan ("SWMP") and consider high priority retrofit projects as candidates for off-site mitigation for new development and redevelopment projects.

(v) Permit Part VI.D.9.d.(v) requires the City to cooperate with private landowners to "encourage site specific retrofitting projects." In such cooperation, demonstration retrofit projects, retrofits on public lands and easements, education and outreach, subsidies for retrofit projects, requiring retrofit projects as enforcement, mitigation or ordinance compliance, public and private partnerships, fees for existing discharges to the MS4 and reduction of such fees for retrofit implementation must be considered.

(vi) Permit Part VI.D.9.g.(ii) requires the City to implement an Integrated Pest Management ("IPM") program, including restrictions on the use of pesticides, restricting treatments only to remove the target organism, selection of pest controls that minimize risks to human health, "beneficial non-target organisms" and the environment, partnering with other

agencies and organizations to "encourage" the use of IPM and adopt and "verifiably implement" policies, procedures and/or ordinances requiring the minimization of pesticide use and encouraging the use of IPM techniques for public agency facilities and activities. Additionally, the City must commit and schedule to reduce the use of pesticides that cause impairments of surface waters by preparing and updating annually an inventory of pesticides, quantify pesticide use by staff and contractors and demonstrate implementation of IPM alternatives where feasible to reduce pesticide use.

(vii) Permit Part VI.D.9.h.(vii) requires permittees in areas not subject to a Trash TMDL, to install trash excluders, or equivalent devices, on or in catch basins or outfalls, except where such installation would cause flooding, unless lack of maintenance that causes the flooding. Permittees, including the City, may also employ alternative or enhanced BMPs that "provide substantially equivalent removal of trash." If alternative means are employed, the City must demonstrate that such BMPs "provide equivalent trash removal performance as excluders."

(viii) Permit Part VI.D.9.k.(ii) requires the City to train all employees and contractors "who use or have the potential to use pesticides or fertilizers" that address the potential for pesticide-related surface water toxicity, in the proper use, handling, and disposal of pesticides, least toxic methods of pest prevention and control, including IPM and the reduction of pesticide use.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years

during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

h. Illicit Connection and Discharge Requirements:

(i) Permit Part VI.D.10.d.(iii) requires the City to "ensure that signage adjacent to open channels . . . include information regarding dumping prohibitions and public reporting of illicit discharges."

(ii) Permit Part VI.D.10.d.(iv) requires the City to develop and maintain written procedures that document how complaint calls are received, documented and tracked "to ensure that all complaints are adequately addressed." Such procedures must be "evaluated to determine whether changes or updates are needed to ensure that the procedures adequately document the methods employed by the Permittee."

(iii) Permit Part VI.D.10.d.(v) the City to maintain documentation of complaint calls and to record the location of the reported spill or illicit discharge and the action undertaken in response.

(iv) Permit Part VI.D.10.e.(i) requires, in pertinent part, that the City implement a "spill response plan" for all sewage and other spills that may discharge into its MS4.

(v) Permit Part VI.D.10.e.(i)(1) requires that the plan must identify agencies responsible for spill response and cleanup, phone numbers and e-mail addresses for contacts and shall further address coordination with spill response teams "throughout all appropriate departments, programs and agencies so that maximum water quality protection is provided."

(vi) Part VI.D.10.e.(i)(3-4) require the City to respond to spills for containment within four hours of become aware of the spill, or if on private property, within two hours of gaining

legal access to the property and reporting of spills that may endanger health or the environment to appropriate public health agencies and the Office of Emergency Services ("OES").

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

8. I am informed and believe that there are no dedicated state, federal or regional funds that are or will be available to pay for any of the new and/or upgraded programs and activities set forth in this Declaration. Except for a modest fee for LID inspections related to new developments, I am not aware of any other fee or tax that the City would have the discretion to impose under California law to recover any portion of the cost of these programs and activities.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 27 day of June, 2014, at Lakewood, California.

Lisa Ann Rapp

DECLARATION OF TONY OLMOS, P.E.

CITY OF MANHATTAN BEACH

I, Tony Olmos, P.E., hereby declare and state as follows:

1. I am Director of Public Works for the City of Manhattan Beach ("City"). In that capacity, I share responsibility for the compliance of the City with regard to the requirements of California Regional Water Quality Control Board, Los Angeles Region ("LARWQCB") Order No. R4-2012-0175 ("the Permit") as they apply to the City.

2. I have reviewed sections of the Permit and its attachments as set forth herein and am familiar with those provisions. I am also familiar with how the Permit changed requirements that were previously imposed on the City by the prior permit that had issued to the City by the LARWQCB in 2001 ("2001 Permit").

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

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

5. In Section 5 and Section 7 of this Test Claim, which contains exhibits to the test claim filed by the City and other permittees under the Permit, the specific sections of the Permit at issue in the test claim have been set forth. I hereby incorporate such provisions of Sections 5 and 7 into this declaration as though fully set forth herein.

6. The City has elected to participate in a Watershed Management Plan or Enhanced Watershed Management Plan ("WMP/EWMP") that will be designed to address, in whole or in part,

the "Total Maximum Daily Load (TMDL")" provisions of the Permit as well other requirements of the Permit, including those set forth in this Declaration.

7. Based on my understanding of the Permit, I believe that the Permit requires the City to undertake the following programs either directly or through the mechanism of a WMP/EWMP, which represent new programs and/or higher levels of service or the shifting of state responsibilities to the City, which activities were not required by the 2001 Permit and which are unique to local government entities:

a. <u>Implementation of TMDLs</u>:

(i) Part VI.E.1.c. requires the permittees to "comply with the applicable water quality-based effluent limitations and/or receiving water limitations contained in Attachments L through R, consistent with the assumptions and requirements of the WLAs established in the TMDLs, including implementation plans and schedules, where provided for in the State adoption and approval of the TMDL (40 CFR 122.44(d)(1)(vii)(B); Cal. Wat. Code § 13263(a))."

(ii) Attachment K to the Permit sets forth the TMDLs with which the City must comply.

(iii) Attachments L through R of the Permit set forth the requirements of each TMDL and its "waste load allocations " with which the City must comply.

(iv) Part VI.B of the Permit requires the City "to comply with the [Monitoring and Reporting Program] and future revisions thereto, in Attachment E of this Order or may, in coordination with an approved Watershed Management Program per Part VI.C, implement a customized monitoring program that achieves the five Primary Objectives set forth in Part II.A of Attachment E and includes the elements set forth in Part II.E of Attachment E."

(v) Attachment E to the Permit requires the monitoring program to include monitoring at "TMDL receiving water compliance points" and other "TMDL monitoring requirements specified in

approved TMDL Monitoring Plans." (Permit, Attachment E, Parts II.E.1 through 3 and Part V; *see also* Attachment E. Parts VI.A.1.b.(iii) and (iv), VI.B.2, VI.C.1.a, VI.D.1.a, VIII.B.1.b.(ii), IX.A.5, IX.C.1.a, IX.E.1.a and b, IX.G.1.b., and IX.G.2.)

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

b. <u>Requirements related to Discharge Prohibitions for Non-Stormwater</u>:

(i) Permit Part III.A.1 prohibits certain non-stormwater discharges through the municipal separate storm sewer system ("MS4") to receiving waters. I have been advised that this requirement exceeds the requirements of the Clean Water Act ("CWA").

(ii) Part III.A.2 requires the City to employ best management practices ("BMPs") for discharges from essential non-emergency firefighting activities and, with regard to unpermitted discharges by drinking water suppliers, to work with those suppliers on the conditions of their discharges.

(iii) Part III.A.4.a requires the City to develop and implement procedures covering non-permitted discharges of non-stormwater to the City's MS4 in compliance with the requirements of Part III.A.4.a.(i-vi) of the Permit.

(iv) Part III.A.4.b. requires the City to develop and implement procedures to minimize the discharge of landscape irrigation water into the MS4, including to coordinate with local water purveyors to promote water use efficiency, use of drought tolerant vegetation and use of less toxic options for pest

control and landscape management and to develop and implement an outreach and education program to minimize the discharge of irrigation water and associated pollutants.

(v) Part III.A.4.c. requires the City to evaluate monitoring data collected pursuant to the Permit's Monitoring and Reporting Program (Permit Attachment E) and other associated data and information to determine, among other things, if authorized or conditionally authorized non-stormwater discharges are a source of pollutants that may be causing or contributing to an exceedance of receiving water limitations and/or water quality based effluent limitations.

(vi) Part III.A.4.d. requires the City to take action to address such non-stormwater discharges if they are found to be such a source of pollutants, through effective prohibition, conditions, diversions or treatment. These tasks involve, among other things, meeting with non-stormwater dischargers, identifying and analyzing the nature of non-stormwater discharges, the development and implementation of discharge procedures, conducting public education efforts and evaluating monitoring data.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

c. <u>Public Information Program Requirements</u>:

(i) Permit Part VI.D.5.a. requires the City to "measurably increase" the knowledge of target audiences about the MS4, the adverse impacts of stormwater pollution on receiving waters and potential solutions to mitigate impacts, to "measurably change" waste disposal and stormwater pollution generation behavior by developing and encouraging implementation of "appropriate alternatives" and to

"involve and engage a diversity of socio-economic groups and ethnic communities" to participate in stormwater pollution impact mitigation.

(ii) Permit Part VI.D.5.b. the City to implement Public Information and Participation Program activities by participating in either a County-wide, Watershed Group-sponsored or individual effort.

(iii) Permit Part VI.D.5.c. requires the City to provide a means for public reporting of clogged catch basin inlets and illicit discharges/dumping, faded or missing catch basin labels and general stormwater and non-stormwater pollution prevention information through a telephone hotline or in public information or government pages of the telephone book, identify staff or departments serving as contact persons and providing current, updated hotline information. The City is also required to organize events targeted to residents and population subgroups to "educate and involve the community in storm water and non-storm water pollution prevent and clean-up (e.g., education seminars, clean-ups, and community catch basin stenciling)."

(iv) Permit Part VI.D.5.d. requires the City to conduct stormwater pollution prevention public service announcements and advertising campaigns and provide public education materials on the proper handling of vehicle waste fluids, house, and construction waste, pesticides and fertilizers (including the use of integrated pest management practices), green waste and animal wastes. This Part further requires the City (a) to distribute public education materials at automotive parts stores, home improvement centers, lumber yards and hardware and paint stores, landscaping and gardening centers and pet shops and feed stores, and (b) to maintain stormwater websites or provide links to stormwater websites via the City's website, which must include educational material and opportunities for public participation in stormwater pollution and cleanup activities and provide schools within the City's jurisdiction with materials to education K-12 students on stormwater pollution. In each of these requirements, Permit

Part VID.5.d. requires the City to "use effective strategies to educate and involve ethnic communities in storm water pollution prevention through culturally effective methods."

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

d. <u>Inventory and Inspections of Industrial/Commercial Sources</u>:

(i) Permit Part VI.D.6.b. requires the City to track nurseries and nursery centers and to include various information for each facility on the inventory, including the industrial classification code, the status of exposure of materials to stormwater, the name of the receiving water, whether the facility is tributary to a waterbody listed as impaired under CWA section 303(d) where the facility generates pollutants for which the waterbody is impaired, and whether the facility has filed a "No Exposure Certification" ("NEC") with the State Water Resources Control Board ("State Board"). The City is required to update the inventory at least annually, through collection of information through field activities over from other means.

(ii) Permit Part VI.D.6.d. requires the City to inspect restaurants, automotive service facilities, retail gasoline outlets and nurseries and nursery centers twice during the Permit term, including an inspection within two years after the Permit's effective date. In such inspection, the City is required, among other things, to evaluate whether the source is implementing effective source control BMPs for each corresponding activity and to require implementation of additional BMPs where stormwater from the facility discharged to the MS4 discharges to a Significant Ecological Area ("SEA"), a water body subject to TMDL provisions or a CWA section 303(d) listed waterbody.

(iii) Permit Part VI.D.6.e. requires the City to inspect industrial facilities, including those identified in 40 C.F.R. section 122.26(b)(14)(i-xi) and facilities identified in 40 C.F.R. section 122.26(d)(12)(iv)(C). In such inspections, the City is required to confirm that each facility has a current Waste Discharge Identification number for coverage under the State Board-issued General Industrial Activities Stormwater Permit or has applied for and received a no exposure certification, and to require implementation of additional BMPs where stormwater from the MS4 discharges to a waterbody subject to a TMDL or is a CWA section 303(d) listed impaired waterbodies. Additionally, for facilities discharging to MS4s that discharge to an SEA, the permittees, including the City, are required to require operators to implement additional pollutant-specific controls to reduce pollutants that are causing or contributing to exceedances of water quality standards.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

e. <u>Post-Construction BMP Requirements</u>:

(i) Permit Part VI.D.7.d.(iv)(1)(a) requires the City to implement a GIS or other electronic system for tracking projects that are required to have post-construction BMPs, including project identification, acreage, BMP type and description, BMP locations, dates of acceptance and maintenance agreements, inspection dates and summaries and corrective action.

(ii) Permit Part VI.D.7.d.(iv)(1)(b) requires the City to inspect all development sites upon completion of construction and before issuance of an occupancy certificate to ensure "proper

installation" of Low Impact Development ("LID") measures, structural BMPs, treatment control BMPs and hydromodification control BMPs.

(iii) Permit Part VI.D.7.d.(iv)(1)(c) requires the City to develop a post-construction BMP checklist and to inspect at an interval of at least once every two years, City-operated post-construction BMPs to assess operations condition.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

f. <u>Construction Site Requirements</u>:

(i) Permit Part VI.D.8.g.(i) requires the City to develop an electronic system to inventory grading, encroachment, demolition, building or construction permits (or other municipal authorizations to move soil and/or construct or destruct that involves land disturbance).

(ii) Permit Part VI.D.8.g.(ii) requires the City to complete and update an inventory containing, among other items, contact information for a project, basic site information, the proximity of all water bodies, significant threats to water quality status, current construction phase where feasible, required inspection frequency, start and anticipated completion dates, whether the project has submitted a Notice of Intent to be covered under the State Board-issued General Construction Activities Stormwater Permit ("GCASP"), whether it has obtained GCASP coverage, the date the Erosion and Sediment Control Plan ("ESCP") was approved and post-construction structural BMPs subject to operation and maintenance requirements.

(iii) Permit Part VI.D.8.h requires the City to develop and implement review procedures for construction plan documents, inkling preparation and submittal of an appropriate ESCP, verification of GCASP or other permit coverage and other items. The Part further requires permittees, including the City, to develop and implement a checklist to conduct and document the review of each ESCP.

(iv) Permit Part VI.D.8.i.(i) requires the City to develop and implement technical standards for the selection, installation and maintenance of construction BMPs for all such sites within the City.

(v) Permit Part VI.D.8.i.(ii) requires that such BMPs be tailored to the risks posed by the project, as well as in minimum conformance with standards set forth in Permit Table 15, use of BMPs meeting the requirements of Permit Tables 14 and 16 for constructions sites equal or greater than one acre or paving projects, detailed installation designs and cut sheets for use in ESCPs and maintenance expectations for each BMP or category of BMPs.

(vi) Permit PartVI.D.8.i.(iv) further requires that such technical standards must be "readily available" to the development community and must be "clearly referenced" within the City's stormwater or development services website, ordinance, permit approval process and/or ESCP review forms.

(vii) Permit Part VI.D.8.i.(v) requires local BMP technical standards to cover all items set forth in Tables 13, 14, 15 and 16 of the Permit.

(viii) Permit Part VI.D.8.j requires the City to inspect all construction sites of one acre or greater in size on the frequencies set forth in the Permit, which requires inspections prior to land disturbance activities, during active construction and at the conclusion of the project and as a condition to approving and/or issuing a Certificate of Occupancy. The frequency of inspections is set in addition in Table 17 of the Permit. As part of the inspection obligations, the permittees, including the City, must develop, implement and revise as necessary standard operating procedures that identify the inspection

procedures to be followed by each permittee. Additionally, during inspections, the City must verify "active coverage" under the GCASP for specified projects; review the ESCP; inspect the site to determine whether all BMPs have been selected, installed, implemented and maintained; assess the appropriateness of planned and installed BMPs, and their effectiveness; visually observe and record non-stormwater discharge, potential illicit discharges and connections and potential discharge of pollutants in stormwater runoff; develop a written or electronic inspection report generated from a field inspection checklist; and track the number of inspections for the site to ensure that it meets the minimum requirements of Permit Table 17.

(ix) Permit Part VI.D.8.l.(i-ii) requires the City to ensure training for "all staff whose primary job duties are related to implementing the construction storm water program," including plan reviewers and permitting staff with regard to the "technical review of local erosion and sediment control ordinance, local BMP technical standards, ESCP requirements, and the key objectives of the State Water Board QSD program, erosion sediment control/storm water inspectors in inspection procedures consistent with various standards. Additionally, if outside parties conduct inspections or review plans, the City is required to ensure that such staff are trained under the same requirements.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

g. <u>Public Agency Requirements</u>:

(i) Permit Part VI.D.9.c. requires the City to maintain an "updated inventory" of all permittee-owned or operated facilities that are potential sources of stormwater pollution, including 24

separate categories of facilities that are required to be in the inventory. The inventory must include the name and address of the facility, contact information, a narrative description of activities performed and potential pollution sources, coverage under any individual or general NPDES permits or waivers. The inventory must be updated at least once during the five-year term of the Permit with information collected through field activities or other means. (ii) Permit Part VI.D.9.d.(i) requires the City to develop an inventory of "retrofitting opportunities" in areas of existing development.

(iii) Permit Part VI.D.9.d.(ii-iii) requires the City to screen existing areas of development "to identify candidate areas for retrofitting using watershed models or other screening level tools" and then evaluate and rank areas of existing development to prioritize retrofitting candidates.

(iv) Permit Part VI.D.9.d.(iv) requires the City to consider the results of the evaluation by giving "highly feasible" projects a "high priority" to implement source control and treatment control BMPs in the their Storm Water Management Plan ("SWMP") and consider high priority retrofit projects as candidates for off-site mitigation for new development and redevelopment projects.

(v) Permit Part VI.D.9.d.(v) requires the City to cooperate with private landowners to "encourage site specific retrofitting projects." In such cooperation, demonstration retrofit projects, retrofits on public lands and easements, education and outreach, subsidies for retrofit projects, requiring retrofit projects as enforcement, mitigation or ordinance compliance, public and private partnerships, fees for existing discharges to the MS4 and reduction of such fees for retrofit implementation must be considered.

(vi) Permit Part VI.D.9.g.(ii) requires the City to implement an Integrated Pest Management ("IPM") program, including restrictions on the use of pesticides, restricting treatments only to remove the target organism, selection of pest controls that minimize risks to human health, "beneficial non-target

organisms" and the environment, partnering with other agencies and organizations to "encourage" the use of IPM and adopt and "verifiably implement" policies, procedures and/or ordinances requiring the minimization of pesticide use and encouraging the use of IPM techniques for public agency facilities and activities. Additionally, the City must commit and schedule to reduce the use of pesticides that cause impairments of surface waters by preparing and updating annually an inventory of pesticides, quantify pesticide use by staff and contractors and demonstrate implementation of IPM alternatives where feasible to reduce pesticide use.

(vii) Permit Part VI.D.9.h.(vii) requires permittees in areas not subject to a Trash TMDL, to install trash excluders, or equivalent devices, on or in catch basins or outfalls, except where such installation would cause flooding, unless lack of maintenance that causes the flooding. Permittees, including the City, may also employ alternative or enhanced BMPs that "provide substantially equivalent removal of trash." If alternative means are employed, the City must demonstrate that such BMPs "provide equivalent trash removal performance as excluders."

(viii) Permit Part VI.D.9.k.(ii) requires the City to train all employees and contractors "who use or have the potential to use pesticides or fertilizers" that address the potential for pesticide-related surface water toxicity, in the proper use, handling, and disposal of pesticides, least toxic methods of pest prevention and control, including IPM and the reduction of pesticide use.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

h. <u>Illicit Connection and Discharge Requirements</u>:

(i) Permit Part VI.D.10.d.(iii) requires the City to "ensure that signage adjacent to open channels . . . include information regarding dumping prohibitions and public reporting of illicit discharges."

(ii) Permit Part VI.D.10.d.(iv) requires the City to develop and maintain written procedures that document how complaint calls are received, documented and tracked "to ensure that all complaints are adequately addressed." Such procedures must be "evaluated to determine whether changes or updates are needed to ensure that the procedures adequately document the methods employed by the Permittee."

(iii) Permit Part VI.D.10.d.(v) the City to maintain documentation of complaint calls and to record the location of the reported spill or illicit discharge and the action undertaken in response.

(iv) Permit Part VI.D.10.e.(i) requires, in pertinent part, that the City implement a "spill response plan" for all sewage and other spills that may discharge into its MS4.

(v) Permit Part VI.D.10.e.(i)(1) requires that the plan must identify agencies responsible for spill response and cleanup, phone numbers and e-mail addresses for contacts and shall further address coordination with spill response teams "throughout all appropriate departments, programs and agencies so that maximum water quality protection is provided."

(vi) Part VI.D.10.e.(i)(3-4) require the City to respond to spills for containment within four hours of become aware of the spill, or if on private property, within two hours of gaining legal access to the property and reporting of spills that may endanger health or the environment to appropriate public health agencies and the Office of Emergency Services ("OES").

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these

requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 27th day of June, 2014, at Manhattan Beach, California.

DECLARATION OF ADRIANA FIGUEROA

CITY OF NORWALK

I, Adriana Figueroa, hereby declare and state as follows:

1. I am an employee of the City of Norwalk ("City"). In that capacity, I share responsibility for the compliance of the City with regard to the requirements of California Regional Water Quality Control Board, Los Angeles Region ("LARWQCB") Order No. R4-2012-0175 ("the Permit") as they apply to the City.

2. I have reviewed sections of the Permit and its attachments as set forth herein and I am familiar with those provisions. I am also familiar with how the Permit changed requirements that were previously imposed on the City by the prior permit that had been issued to the City by the LARWQCB in 2001 ("2001 Permit").

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

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

5. In Section 5 and Section 7 of this Test Claim, which contains exhibits to the test claim filed by the City and other permittees under the Permit, the specific sections of the Permit at issue in the test claim have been set forth. I hereby incorporate such provisions of Sections 5 and 7 into this declaration as though fully set forth herein.

6. The City has elected to participate in a Watershed Management Plan or Enhanced Watershed Management Plan ("WMP/EWMP") that will be designed to address, in whole or in

part, the "Total Maximum Daily Load (TMDL")" provisions of the Permit as well as other requirements of the Permit, including those set forth in this Declaration.

7. Based on my understanding of the Permit, I believe that the Permit requires the City to undertake the following programs either directly or through the mechanism of a WMP/EWMP, which represent new programs and/or higher levels of service or the shifting of state responsibilities to the City, which activities were not required by the 2001 Permit and which are unique to local government entities:

a. Implementation of TMDLs:

(i) Part VI.E.1.c. requires the permittees to "comply with the applicable water quality-based effluent limitations and/or receiving water limitations contained in Attachments L through R, consistent with the assumptions and requirements of the WLAs established in the TMDLs, including implementation plans and schedules, where provided for in the State adoption and approval of the TMDL (40 CFR 122.44(d)(1)(vii)(B); Cal. Wat. Code § 13263(a))."

(ii) Attachment K to the Permit sets forth the TMDLs with which the City must comply.

(iii) Attachments L through R of the Permit set forth the requirements of each TMDL and its "waste load allocations " with which the City must comply.

(iv) Part VI.B of the Permit requires the City "to comply with the [Monitoring and Reporting Program] and future revisions thereto, in Attachment E of this Order or may, in coordination with an approved Watershed Management Program per Part VI.C, implement a customized monitoring program that achieves the five Primary Objectives set forth in Part II.A of Attachment E and includes the elements set forth in Part II.E of Attachment E."

(v) Attachment E to the Permit requires the monitoring program to include monitoring at "TMDL receiving water compliance points" and other "TMDL monitoring requirements specified in approved TMDL Monitoring Plans." (Permit, Attachment E, Parts II.E.1 through 3 and Part V; *see also* Attachment E. Parts VI.A.1.b.(iii) and (iv), VI.B.2, VI.C.1.a, VI.D.1.a, VIII.B.1.b.(ii), IX.A.5, IX.C.1.a, IX.E.1.a and b, IX.G.1.b., and IX.G.2.)

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

b. <u>Requirements related to Discharge Prohibitions for Non-Stormwater</u>:

(i) Permit Part III.A.1 prohibits certain non-stormwater discharges through the municipal separate storm sewer system ("MS4") to receiving waters. I have been advised that this requirement exceeds the requirements of the Clean Water Act ("CWA").

(ii) Part III.A.2 requires the City to employ best management practices ("BMPs") for discharges from essential non-emergency firefighting activities and, with regard to unpermitted discharges by drinking water suppliers, to work with those suppliers on the conditions of their discharges.

(iii) Part III.A.4.a requires the City to develop and implement procedures covering non-permitted discharges of non-stormwater to the City's MS4 in compliance with the requirements of Part III.A.4.a.(i-vi) of the Permit.

(iv) Part III.A.4.b. requires the City to develop and implement procedures to minimize the discharge of landscape irrigation water into the MS4, including to coordinate with local water purveyors to promote water use efficiency, use of drought tolerant vegetation and use of less toxic options for pest control and landscape management and to develop and implement an outreach and education program to minimize the discharge of irrigation water and associated pollutants.

(v) Part III.A.4.c. requires the City to evaluate monitoring data collected pursuant to the Permit's Monitoring and Reporting Program (Permit Attachment E) and other associated data and information to determine, among other things, if authorized or conditionally authorized non-stormwater discharges are a source of pollutants that may be causing or contributing to an exceedance of receiving water limitations and/or water quality based effluent limitations.

(vi) Part III.A.4.d. requires the City to take action to address such non-stormwater discharges if they are found to be such a source of pollutants, through effective prohibition, conditions, diversions or treatment. These tasks involve, among other things, meeting with non-stormwater dischargers, identifying and analyzing the nature of non-stormwater discharges, the development and implementation of discharge procedures, conducting public education efforts and evaluating monitoring data.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

c. **Public Information Program Requirements**:

(i) Permit Part VI.D.5.a. requires the City to "measurably increase" the knowledge of target audiences about the MS4, the adverse impacts of stormwater pollution on receiving waters and potential solutions to mitigate impacts, to "measurably change" waste disposal and stormwater pollution generation behavior by developing and encouraging implementation of "appropriate alternatives" and to "involve and engage a diversity of socio-economic groups and ethnic communities" to participate in stormwater pollution impact mitigation.

(ii) Permit Part VI.D.5.b. requires the City to implement Public Information and Participation Program activities by participating in either a County-wide, Watershed Group-sponsored or individual effort.

(iii) Permit Part VI.D.5.c. requires the City to provide a means for public reporting of clogged catch basin inlets and illicit discharges/dumping, faded or missing catch basin labels and general stormwater and non-stormwater pollution prevention information through a telephone hotline or in public information or government pages of the telephone book, identify staff or departments serving as contact persons and providing current, updated hotline information. The City is also required to organize events targeted to residents and population subgroups to "educate and involve the community in storm water and non-storm water pollution prevent and clean-up (e.g., education seminars, clean-ups, and community catch basin stenciling)."

(iv) Permit Part VI.D.5.d. requires the City to conduct stormwater pollution prevention public service announcements and advertising campaigns and provide public education materials on the proper handling of vehicle waste fluids, house, and construction waste, pesticides and fertilizers (including the use of integrated pest management practices), green waste and animal

wastes. This Part further requires the City (a) to distribute public education materials at automotive parts stores, home improvement centers, lumber yards and hardware and paint stores, landscaping and gardening centers and pet shops and feed stores, and (b) to maintain stormwater websites or provide links to stormwater websites via the City's website, which must include educational material and opportunities for public participation in stormwater pollution and cleanup activities and provide schools within the City's jurisdiction with materials to education K-12 students on stormwater pollution. In each of these requirements, Permit Part VID.5.d. requires the City to "use effective strategies to educate and involve ethnic communities in storm water pollution prevention through culturally effective methods."

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

d. Inventory and Inspections of Industrial/Commercial Sources:

(i) Permit Part VI.D.6.b. requires the City to track nurseries and nursery centers and to include various information for each facility on the inventory, including the industrial classification code, the status of exposure of materials to stormwater, the name of the receiving water, whether the facility is tributary to a waterbody listed as impaired under CWA section 303(d) where the facility generates pollutants for which the waterbody is impaired, and whether the facility has filed a "No Exposure Certification" ("NEC") with the State Water Resources

Control Board ("State Board"). The City is required to update the inventory at least annually, through collection of information through field activities from other means.

(ii) Permit Part VI.D.6.d. requires the City to inspect restaurants, automotive service facilities, retail gasoline outlets and nurseries and nursery centers twice during the Permit term, including an inspection within two years after the Permit's effective date. In such inspection, the the City is required, among other things, to evaluate whether the source is implementing effective source control BMPs for each corresponding activity and to require implementation of additional BMPs where stormwater from the facility discharged to the MS4 discharges to a Significant Ecological Area ("SEA"), a water body subject to TMDL provisions or a CWA section 303(d) listed waterbody.

(iii) Permit Part VI.D.6.e. requires the City to inspect industrial facilities, including those identified in 40 C.F.R. section 122.26(b)(14)(i-xi) and facilities identified in 40 C.F.R. section 122.26(d)(12)(iv)(C). In such inspections, the City is required to confirm that each facility has a current Waste Discharge Identification number for coverage under the State Board-issued General Industrial Activities Stormwater Permit or has applied for and received a no exposure certification, and to require implementation of additional BMPs where stormwater from the MS4 discharges to a waterbody subject to a TMDL or is a CWA section 303(d) listed impaired waterbodies. Additionally, for facilities discharging to MS4s that discharge to an SEA, the permittees, including the City, are required to require operators to implement additional pollutant-specific controls to reduce pollutants that are causing or contributing to exceedances of water quality standards.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

e. Post-Construction BMP Requirements:

(i) Permit Part VI.D.7.d.(iv)(1)(a) requires the City to implement a GIS or other electronic system for tracking projects that are required to have post-construction BMPs, including project identification, acreage, BMP type and description, BMP locations, dates of acceptance and maintenance agreements, inspection dates and summaries and corrective action.

(ii) Permit Part VI.D.7.d.(iv)(1)(b) requires the City to inspect all development sites upon completion of construction and before issuance of an occupancy certificate to ensure "proper installation" of Low Impact Development ("LID") measures, structural BMPs, treatment control BMPs and hydromodification control BMPs.

(iii) Permit Part VI.D.7.d.(iv)(1)(c) requires the City to develop a post-construction BMP checklist and to inspect at an interval of at least once every two years, City-operated post-construction BMPs to assess operations condition.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

f. Construction Site Requirements:

(i) Permit Part VI.D.8.g.(i) requires the City to develop an electronic system to inventory grading, encroachment, demolition, building or construction permits (or other municipal authorizations to move soil and/or construct or destruct that involves land disturbance).

(ii) Permit Part VI.D.8.g.(ii) requires the City to complete and update an inventory containing, among other items, contact information for a project, basic site information, the proximity of all water bodies, significant threats to water quality status, current construction phase where feasible, required inspection frequency, start and anticipated completion dates, whether the project has submitted a Notice of Intent to be covered under the State Board-issued General Construction Activities Stormwater Permit ("GCASP"), whether it has obtained GCASP coverage, the date the Erosion and Sediment Control Plan ("ESCP") was approved and post-construction structural BMPs subject to operation and maintenance requirements.

(iii) Permit Part VI.D.8.h requires the City to develop and implement review procedures for construction plan documents, inkling preparation and submittal of an appropriate ESCP, verification of GCASP or other permit coverage and other items. The Part further requires permittees, including the City, to develop and implement a checklist to conduct and document the review of each ESCP.

(iv) Permit Part VI.D.8.i.(i) requires the City to develop and implement technical standards for the selection, installation and maintenance of construction BMPs for all such sites within the City.

(v) Permit Part VI.D.8.i.(ii) requires that such BMPs be tailored to the risks posed by the project, as well as in minimum conformance with standards set forth in Permit Table 15, use of

BMPs meeting the requirements of Permit Tables 14 and 16 for constructions sites equal or greater than one acre or paving projects, detailed installation designs and cut sheets for use in ESCPs and maintenance expectations for each BMP or category of BMPs.

(vi) Permit PartVI.D.8.i.(iv) further requires that such technical standards must be "readily available" to the development community and must be "clearly referenced" within the City's stormwater or development services website, ordinance, permit approval process and/or ESCP review forms.

(vii) Permit Part VI.D.8.i.(v) requires local BMP technical standards to cover all items set forth in Tables 13, 14, 15 and 16 of the Permit.

(viii) Permit Part VI.D.8.j requires the City to inspect all construction sites of one acre or greater in size on the frequencies set forth in the Permit, which requires inspections prior to land disturbance activities, during active construction and at the conclusion of the project and as a condition to approving and/or issuing a Certificate of Occupancy. The frequency of inspections is set in addition in Table 17 of the Permit. As part of the inspection obligations, the permittees, including the City, must develop, implement and revise as necessary standard operating procedures that identify the inspection procedures to be followed by each permittee. Additionally, during inspections, the City must verify "active coverage" under the GCASP for specified projects; review the ESCP; inspect the site to determine whether all BMPs have been selected, installed, implemented and maintained; assess the appropriateness of planned and installed BMPs, and their effectiveness; visually observe and record non-stormwater discharge, potential illicit discharges and connections and potential discharge of pollutants in stormwater runoff; develop a written or electronic inspection report generated from a field inspection

checklist; and track the number of inspections for the site to ensure that it meets the minimum requirements of Permit Table 17.

(ix) Permit Part VI.D.8.l.(i-ii) requires the City to ensure training for "all staff whose primary job duties are related to implementing the construction storm water program," including plan reviewers and permitting staff with regard to the "technical review of local erosion and sediment control ordinance, local BMP technical standards, ESCP requirements, and the key objectives of the State Water Board QSD program, erosion sediment control/storm water inspectors in inspection procedures consistent with various standards. Additionally, if outside parties conduct inspections or review plans, the City is required to ensure that such staff are trained under the same requirements.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

g. <u>Public Agency Requirements</u>:

(i) Permit Part VI.D.9.c. requires the City to maintain an "updated inventory" of all permittee-owned or operated facilities that are potential sources of stormwater pollution, including 24 separate categories of facilities that are required to be in the inventory. The inventory must include the name and address of the facility, contact information, a narrative description of activities performed and potential pollution sources, coverage under any individual or general NPDES permits or waivers. The inventory must be updated at least once during the

five-year term of the Permit with information collected through field activities or other means.

(ii) Permit Part VI.D.9.d.(i) requires the City to develop an inventory of "retrofitting opportunities" in areas of existing development.

(iii) Permit Part VI.D.9.d.(ii-iii) requires the City to screen existing areas of development "to identify candidate areas for retrofitting using watershed models or other screening level tools" and then evaluate and rank areas of existing development to prioritize retrofitting candidates.

(iv) Permit Part VI.D.9.d.(iv) requires the City to consider the results of the evaluation by giving "highly feasible" projects a "high priority" to implement source control and treatment control BMPs in the their Storm Water Management Plan ("SWMP") and consider high priority retrofit projects as candidates for off-site mitigation for new development and redevelopment projects.

(v) Permit Part VI.D.9.d.(v) requires the City to cooperate with private landowners to "encourage site specific retrofitting projects." In such cooperation, demonstration retrofit projects, retrofits on public lands and easements, education and outreach, subsidies for retrofit projects, requiring retrofit projects as enforcement, mitigation or ordinance compliance, public and private partnerships, fees for existing discharges to the MS4 and reduction of such fees for retrofit implementation must be considered.

(vi) Permit Part VI.D.9.g.(ii) requires the City to implement an Integrated Pest Management ("IPM") program, including restrictions on the use of pesticides, restricting treatments only to remove the target organism, selection of pest controls that minimize risks to human health, "beneficial non-target organisms" and the environment, partnering with other

agencies and organizations to "encourage" the use of IPM and adopt and "verifiably implement" policies, procedures and/or ordinances requiring the minimization of pesticide use and encouraging the use of IPM techniques for public agency facilities and activities. Additionally, the City must commit and schedule to reduce the use of pesticides that cause impairments of surface waters by preparing and updating annually an inventory of pesticides, quantify pesticide use by staff and contractors and demonstrate implementation of IPM alternatives where feasible to reduce pesticide use.

(vii) Permit Part VI.D.9.h.(vii) requires permittees in areas not subject to a Trash TMDL, to install trash excluders, or equivalent devices, on or in catch basins or outfalls, except where such installation would cause flooding, unless lack of maintenance that causes the flooding. Permittees, including the City, may also employ alternative or enhanced BMPs that "provide substantially equivalent removal of trash." If alternative means are employed, the City must demonstrate that such BMPs "provide equivalent trash removal performance as excluders."

(viii) Permit Part VI.D.9.k.(ii) requires the City to train all employees and contractors "who use or have the potential to use pesticides or fertilizers" that address the potential for pesticide-related surface water toxicity, in the proper use, handling, and disposal of pesticides, least toxic methods of pest prevention and control, including IPM and the reduction of pesticide use.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years

during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

h. Illicit Connection and Discharge Requirements:

(i) Permit Part VI.D.10.d.(iii) requires the City to "ensure that signage adjacent to open channels . . . include information regarding dumping prohibitions and public reporting of illicit discharges."

(ii) Permit Part VI.D.10.d.(iv) requires the City to develop and maintain written procedures that document how complaint calls are received, documented and tracked "to ensure that all complaints are adequately addressed." Such procedures must be "evaluated to determine whether changes or updates are needed to ensure that the procedures adequately document the methods employed by the Permittee."

(iii) Permit Part VI.D.10.d.(v) the City to maintain documentation of complaint calls and to record the location of the reported spill or illicit discharge and the action undertaken in response.

(iv) Permit Part VI.D.10.e.(i) requires, in pertinent part, that the City implement a "spill response plan" for all sewage and other spills that may discharge into its MS4.

(v) Permit Part VI.D.10.e.(i)(1) requires that the plan must identify agencies responsible for spill response and cleanup, phone numbers and e-mail addresses for contacts and shall further address coordination with spill response teams "throughout all appropriate departments, programs and agencies so that maximum water quality protection is provided."

(vi) Part VI.D.10.e.(i)(3-4) require the City to respond to spills for containment within four hours of become aware of the spill, or if on private property, within two hours of gaining

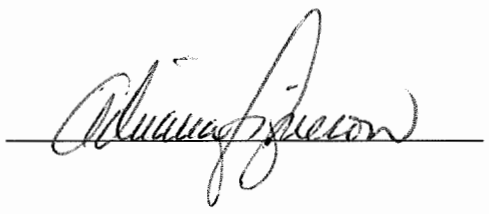
legal access to the property and reporting of spills that may endanger health or the environment to appropriate public health agencies and the Office of Emergency Services ("OES").

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

8. Other than a portion of a Proposition 84, Round 2, stormwater grant program, of which the City will receive a small portion for implementation of treebox LID BMPs, but which will not cover all costs, I am informed and believe that there are no other dedicated state, federal or regional funds that are or will be available to pay for any of the new and/or upgraded programs and activities set forth in this Declaration. I am not aware of any other fee or tax that the City would have the discretion to impose under California law to recover any portion of the cost of these programs and activities.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 27th day of June, 2014, at Norwalk, California.



DECLARATION OF MICHAEL MATSUMOTO

CITY OF PICO RIVERA

I, Michael Matsumoto, hereby declare and state as follows:

1. I am the Assistant City Manager for the City of Pico Rivera ("City"). In that capacity, I share responsibility for the compliance of the City with regard to the requirements of California Regional Water Quality Control Board, Los Angeles Region ("LARWQCB") Order No. R4-2012-0175 ("the Permit") as they apply to the City.

2. I have reviewed sections of the Permit and its attachments as set forth herein and am familiar with those provisions. I am also familiar with how the Permit changed requirements that were previously imposed on the City by the prior permit that had issued to the City by the LARWQCB in 2001 ("2001 Permit").

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

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

5. In Section 5 and Section 7 of this Test Claim, which contains exhibits to the test claim filed by the City and other permittees under the Permit, the specific sections of the Permit at issue in the test claim have been set forth. I hereby incorporate such provisions of Sections 5 and 7 into this declaration as though fully set forth herein.

6. The City has elected to participate in a Watershed Management Plan or Enhanced Watershed Management Plan ("WMP/EWMP") that will be designed to address, in whole or in

part, the "Total Maximum Daily Load (TMDL")" provisions of the Permit as well other requirements of the Permit, including those set forth in this Declaration.

7. Based on my understanding of the Permit, I believe that the Permit requires the City to undertake the following programs either directly or through the mechanism of a WMP/EWMP, which represent new programs and/or higher levels of service or the shifting of state responsibilities to the City, which activities were not required by the 2001 Permit and which are unique to local government entities:

a. Implementation of TMDLs:

(i) Part VI.E.1.c. requires the permittees to "comply with the applicable water quality-based effluent limitations and/or receiving water limitations contained in Attachments L through R, consistent with the assumptions and requirements of the WLAs established in the TMDLs, including implementation plans and schedules, where provided for in the State adoption and approval of the TMDL (40 CFR 122.44(d)(1)(vii)(B); Cal. Wat. Code § 13263(a))."

(ii) Attachment K to the Permit sets forth the TMDLs with which the City must comply.

(iii) Attachments L through R of the Permit set forth the requirements of each TMDL and its "waste load allocations " with which the City must comply.

(iv) Part VI.B of the Permit requires the City "to comply with the [Monitoring and Reporting Program] and future revisions thereto, in Attachment E of this Order or may, in coordination with an approved Watershed Management Program per Part VI.C, implement a customized monitoring program that achieves the five Primary Objectives set forth in Part II.A of Attachment E and includes the elements set forth in Part II.E of Attachment E."

(v) Attachment E to the Permit requires the monitoring program to include monitoring at "TMDL receiving water compliance points" and other "TMDL monitoring requirements specified in approved TMDL Monitoring Plans." (Permit, Attachment E, Parts II.E.1 through 3 and Part V; *see also* Attachment E. Parts VI.A.1.b.(iii) and (iv), VI.B.2, VI.C.1.a, VI.D.1.a, VIII.B.1.b.(ii), IX.A.5, IX.C.1.a, IX.E.1.a and b, IX.G.1.b., and IX.G.2.)

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

b. Requirements related to Discharge Prohibitions for Non-Stormwater:

(i) Permit Part III.A.1 prohibits certain non-stormwater discharges through the municipal separate storm sewer system ("MS4") to receiving waters. I have been advised that this requirement exceeds the requirements of the Clean Water Act ("CWA").

(ii) Part III.A.2 requires the City to employ best management practices ("BMPs") for discharges from essential non-emergency firefighting activities and, with regard to unpermitted discharges by drinking water suppliers, to work with those suppliers on the conditions of their discharges.

(iii) Part III.A.4.a requires the City to develop and implement procedures covering non-permitted discharges of non-stormwater to the City's MS4 in compliance with the requirements of Part III.A.4.a.(i-vi) of the Permit.

(iv) Part III.A.4.b. requires the City to develop and implement procedures to minimize the discharge of landscape irrigation water into the MS4, including to coordinate with local water purveyors to promote water use efficiency, use of drought tolerant vegetation and use of less toxic options for pest control and landscape management and to develop and implement an outreach and education program to minimize the discharge of irrigation water and associated pollutants.

(v) Part III.A.4.c. requires the City to evaluate monitoring data collected pursuant to the Permit's Monitoring and Reporting Program (Permit Attachment E) and other associated data and information to determine, among other things, if authorized or conditionally authorized non-stormwater discharges are a source of pollutants that may be causing or contributing to an exceedance of receiving water limitations and/or water quality based effluent limitations.

(vi) Part III.A.4.d. requires the City to take action to address such non-stormwater discharges if they are found to be such a source of pollutants, through effective prohibition, conditions, diversions or treatment. These tasks involve, among other things, meeting with non-stormwater dischargers, identifying and analyzing the nature of non-stormwater discharges, the development and implementation of discharge procedures, conducting public education efforts and evaluating monitoring data.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

c. Public Information Program Requirements:

(i) Permit Part VI.D.5.a. requires the City to "measurably increase" the knowledge of target audiences about the MS4, the adverse impacts of stormwater pollution on receiving waters and potential solutions to mitigate impacts, to "measurably change" waste disposal and stormwater pollution generation behavior by developing and encouraging implementation of "appropriate alternatives" and to "involve and engage a diversity of socio-economic groups and ethnic communities" to participate in stormwater pollution impact mitigation.

(ii) Permit Part VI.D.5.b. the City to implement Public Information and Participation Program activities by participating in either a County-wide, Watershed Group-sponsored or individual effort.

(iii) Permit Part VI.D.5.c. requires the City to provide a means for public reporting of clogged catch basin inlets and illicit discharges/dumping, faded or missing catch basin labels and general stormwater and non-stormwater pollution prevention information through a telephone hotline or in public information or government pages of the telephone book, identify staff or departments serving as contact persons and providing current, updated hotline information. The City is also required to organize events targeted to residents and population subgroups to "educate and involve the community in storm water and non-storm water pollution prevent and clean-up (e.g., education seminars, clean-ups, and community catch basin stenciling)."

(iv) Permit Part VI.D.5.d. requires the City to conduct stormwater pollution prevention public service announcements and advertising campaigns and provide public education materials on the proper handling of vehicle waste fluids, house, and construction waste, pesticides and fertilizers (including the use of integrated pest management practices), green waste and animal

wastes. This Part further requires the City (a) to distribute public education materials at automotive parts stores, home improvement centers, lumber yards and hardware and paint stores, landscaping and gardening centers and pet shops and feed stores, and (b) to maintain stormwater websites or provide links to stormwater websites via the City's website, which must include educational material and opportunities for public participation in stormwater pollution and cleanup activities and provide schools within the City's jurisdiction with materials to education K-12 students on stormwater pollution. In each of these requirements, Permit Part VID.5.d. requires the City to "use effective strategies to educate and involve ethnic communities in storm water pollution prevention through culturally effective methods."

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

d. Inventory and Inspections of Industrial/Commercial Sources:

(i) Permit Part VI.D.6.b. requires the City to track nurseries and nursery centers and to include various information for each facility on the inventory, including the industrial classification code, the status of exposure of materials to stormwater, the name of the receiving water, whether the facility is tributary to a waterbody listed as impaired under CWA section 303(d) where the facility generates pollutants for which the waterbody is impaired, and whether the facility has filed a "No Exposure Certification" ("NEC") with the State Water Resources

Control Board ("State Board"). The City is required to update the inventory at least annually, through collection of information through field activities over from other means.

(ii) Permit Part VI.D.6.d. requires the City to inspect restaurants, automotive service facilities, retail gasoline outlets and nurseries and nursery centers twice during the Permit term, including an inspection within two years after the Permit's effective date. In such inspection, the City is required, among other things, to evaluate whether the source is implementing effective source control BMPs for each corresponding activity and to require implementation of additional BMPs where stormwater from the facility discharged to the MS4 discharges to a Significant Ecological Area ("SEA"), a water body subject to TMDL provisions or a CWA section 303(d) listed waterbody.

(iii) Permit Part VI.D.6.e. requires the City to inspect industrial facilities, including those identified in 40 C.F.R. section 122.26(b)(14)(i-xi) and facilities identified in 40 C.F.R. section 122.26(d)(12)(iv)(C). In such inspections, the City is required to confirm that each facility has a current Waste Discharge Identification number for coverage under the State Board-issued General Industrial Activities Stormwater Permit or has applied for and received a no exposure certification, and to require implementation of additional BMPs where stormwater from the MS4 discharges to a waterbody subject to a TMDL or is a CWA section 303(d) listed impaired waterbodies. Additionally, for facilities discharging to MS4s that discharge to an SEA, the permittees, including the City, are required to require operators to implement additional pollutant-specific controls to reduce pollutants that are causing or contributing to exceedances of water quality standards.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

e. **Post-Construction BMP Requirements**:

(i) Permit Part VI.D.7.d.(iv)(1)(a) requires the City to implement a GIS or other electronic system for tracking projects that are required to have post-construction BMPs, including project identification, acreage, BMP type and description, BMP locations, dates of acceptance and maintenance agreements, inspection dates and summaries and corrective action.

(ii) Permit Part VI.D.7.d.(iv)(1)(b) requires the City to inspect all development sites upon completion of construction and before issuance of an occupancy certificate to ensure "proper installation" of Low Impact Development ("LID") measures, structural BMPs, treatment control BMPs and hydromodification control BMPs.

(iii) Permit Part VI.D.7.d.(iv)(1)(c) requires the City to develop a post-construction BMP checklist and to inspect at an interval of at least once every two years, City-operated post-construction BMPs to assess operations condition.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

f. Construction Site Requirements:

(i) Permit Part VI.D.8.g.(i) requires the City to develop an electronic system to inventory grading, encroachment, demolition, building or construction permits (or other municipal authorizations to move soil and/or construct or destruct that involves land disturbance).

(ii) Permit Part VI.D.8.g.(ii) requires the City to complete and update an inventory containing, among other items, contact information for a project, basic site information, the proximity of all water bodies, significant threats to water quality status, current construction phase where feasible, required inspection frequency, start and anticipated completion dates, whether the project has submitted a Notice of Intent to be covered under the State Board-issued General Construction Activities Stormwater Permit ("GCASP"), whether it has obtained GCASP coverage, the date the Erosion and Sediment Control Plan ("ESCP") was approved and post-construction structural BMPs subject to operation and maintenance requirements.

(iii) Permit Part VI.D.8.h requires the City to develop and implement review procedures for construction plan documents, inkling preparation and submittal of an appropriate ESCP, verification of GCASP or other permit coverage and other items. The Part further requires permittees, including the City, to develop and implement a checklist to conduct and document the review of each ESCP.

(iv) Permit Part VI.D.8.i.(i) requires the City to develop and implement technical standards for the selection, installation and maintenance of construction BMPs for all such sites within the City.

(v) Permit Part VI.D.8.i.(ii) requires that such BMPs be tailored to the risks posed by the project, as well as in minimum conformance with standards set forth in Permit Table 15, use of

BMPs meeting the requirements of Permit Tables 14 and 16 for constructions sites equal or greater than one acre or paving projects, detailed installation designs and cut sheets for use in ESCPs and maintenance expectations for each BMP or category of BMPs.

(vi) Permit PartVI.D.8.i.(iv) further requires that such technical standards must be "readily available" to the development community and must be "clearly referenced" within the City's stormwater or development services website, ordinance, permit approval process and/or ESCP review forms.

(vii) Permit Part VI.D.8.i.(v) requires local BMP technical standards to cover all items set forth in Tables 13, 14, 15 and 16 of the Permit.

(viii) Permit Part VI.D.8.j requires the City to inspect all construction sites of one acre or greater in size on the frequencies set forth in the Permit, which requires inspections prior to land disturbance activities, during active construction and at the conclusion of the project and as a condition to approving and/or issuing a Certificate of Occupancy. The frequency of inspections is set in addition in Table 17 of the Permit. As part of the inspection obligations, the permittees, including the City, must develop, implement and revise as necessary standard operating procedures that identify the inspection procedures to be followed by each permittee. Additionally, during inspections, the City must verify "active coverage" under the GCASP for specified projects; review the ESCP; inspect the site to determine whether all BMPs have been selected, installed, implemented and maintained; assess the appropriateness of planned and installed BMPs, and their effectiveness; visually observe and record non-stormwater discharge, potential illicit discharges and connections and potential discharge of pollutants in stormwater runoff; develop a written or electronic inspection report generated from a field inspection

checklist; and track the number of inspections for the site to ensure that it meets the minimum requirements of Permit Table 17.

(ix) Permit Part VI.D.8.l.(i-ii) requires the City to ensure training for "all staff whose primary job duties are related to implementing the construction storm water program," including plan reviewers and permitting staff with regard to the "technical review of local erosion and sediment control ordinance, local BMP technical standards, ESCP requirements, and the key objectives of the State Water Board QSD program, erosion sediment control/storm water inspectors in inspection procedures consistent with various standards. Additionally, if outside parties conduct inspections or review plans, the City is required to ensure that such staff are trained under the same requirements.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

g. Public Agency Requirements:

(i) Permit Part VI.D.9.c. requires the City to maintain an "updated inventory" of all permittee-owned or operated facilities that are potential sources of stormwater pollution, including 24 separate categories of facilities that are required to be in the inventory. The inventory must include the name and address of the facility, contact information, a narrative description of activities performed and potential pollution sources, coverage under any individual or general NPDES permits or waivers. The inventory must be updated at least once during the

five-year term of the Permit with information collected through field activities or other means.

(ii) Permit Part VI.D.9.d.(i) requires the City to develop an inventory of "retrofitting opportunities" in areas of existing development.

(iii) Permit Part VI.D.9.d.(ii-iii) requires the City to screen existing areas of development "to identify candidate areas for retrofitting using watershed models or other screening level tools" and then evaluate and rank areas of existing development to prioritize retrofitting candidates.

(iv) Permit Part VI.D.9.d.(iv) requires the City to consider the results of the evaluation by giving "highly feasible" projects a "high priority" to implement source control and treatment control BMPs in the their Storm Water Management Plan ("SWMP") and consider high priority retrofit projects as candidates for off-site mitigation for new development and redevelopment projects.

(v) Permit Part VI.D.9.d.(v) requires the City to cooperate with private landowners to "encourage site specific retrofitting projects." In such cooperation, demonstration retrofit projects, retrofits on public lands and easements, education and outreach, subsidies for retrofit projects, requiring retrofit projects as enforcement, mitigation or ordinance compliance, public and private partnerships, fees for existing discharges to the MS4 and reduction of such fees for retrofit implementation must be considered.

(vi) Permit Part VI.D.9.g.(ii) requires the City to implement an Integrated Pest Management ("IPM") program, including restrictions on the use of pesticides, restricting treatments only to remove the target organism, selection of pest controls that minimize risks to human health, "beneficial non-target organisms" and the environment, partnering with other

agencies and organizations to "encourage" the use of IPM and adopt and "verifiably implement" policies, procedures and/or ordinances requiring the minimization of pesticide use and encouraging the use of IPM techniques for public agency facilities and activities. Additionally, the City must commit and schedule to reduce the use of pesticides that cause impairments of surface waters by preparing and updating annually an inventory of pesticides, quantify pesticide use by staff and contractors and demonstrate implementation of IPM alternatives where feasible to reduce pesticide use.

(vii) Permit Part VI.D.9.h.(vii) requires permittees in areas not subject to a Trash TMDL, to install trash excluders, or equivalent devices, on or in catch basins or outfalls, except where such installation would cause flooding, unless lack of maintenance that causes the flooding. Permittees, including the City, may also employ alternative or enhanced BMPs that "provide substantially equivalent removal of trash." If alternative means are employed, the City must demonstrate that such BMPs "provide equivalent trash removal performance as excluders."

(viii) Permit Part VI.D.9.k.(ii) requires the City to train all employees and contractors "who use or have the potential to use pesticides or fertilizers" that address the potential for pesticide-related surface water toxicity, in the proper use, handling, and disposal of pesticides, least toxic methods of pest prevention and control, including IPM and the reduction of pesticide use.

I am informed and believe that the City has incurred in exeess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years

during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

h. Illicit Connection and Discharge Requirements:

(i) Permit Part VI.D.10.d.(iii) requires the City to "ensure that signage adjacent to open channels . . . include information regarding dumping prohibitions and public reporting of illicit discharges."

(ii) Permit Part VI.D.10.d.(iv) requires the City to develop and maintain written procedures that document how complaint calls are received, documented and tracked "to ensure that all complaints are adequately addressed." Such procedures must be "evaluated to determine whether changes or updates are needed to ensure that the procedures adequately document the methods employed by the Permittee."

(iii) Permit Part VI.D.10.d.(v) the City to maintain documentation of complaint calls and to record the location of the reported spill or illicit discharge and the action undertaken in response.

(iv) Permit Part VI.D.10.e.(i) requires, in pertinent part, that the City implement a "spill response plan" for all sewage and other spills that may discharge into its MS4.

(v) Permit Part VI.D.10.e.(i)(1) requires that the plan must identify agencies responsible for spill response and cleanup, phone numbers and e-mail addresses for contacts and shall further address coordination with spill response teams "throughout all appropriate departments, programs and agencies so that maximum water quality protection is provided."

(vi) Part VI.D.10.e.(i)(3-4) require the City to respond to spills for containment within four hours of become aware of the spill, or if on private property, within two hours of gaining

legal access to the property and reporting of spills that may endanger health or the environment to appropriate public health agencies and the Office of Emergency Services ("OES").

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

8. I am informed and believe that there are no dedicated state, federal or regional funds that are or will be available to pay for any of the new and/or upgraded programs and activities set forth in this Declaration. Except for a plan check construction fee to assure compliance with city codes, I am not aware of any other fee or tax that the City would have the discretion to impose under California law to recover any portion of the cost of these programs and activities.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 27th day of June, 2014, at Pico Rivera, California.

DECLARATION OF CAROLYNN PETRU

CITY OF RANCHO PALOS VERDES

I, Carolynn Petru, hereby declare and state as follows:

1. I am City Manager for the City of Rancho Palos Verdes ("City"). In that capacity, I share responsibility for the compliance of the City with regard to the requirements of California Regional Water Quality Control Board, Los Angeles Region ("LARWQCB") Order No. R4-2012-0175 ("the Permit") as they apply to the City.

2. I have reviewed sections of the Permit and its attachments as set forth herein and am familiar with those provisions. I am also familiar with how the Permit changed requirements that were previously imposed on the City by the prior permit that had issued to the City by the LARWQCB in 2001 ("2001 Permit").

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

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

5. In Section 5 and Section 7 of this Test Claim, which contains exhibits to the test claim filed by the City and other permittees under the Permit, the specific sections of the Permit at issue in the test claim have been set forth. I hereby incorporate such provisions of Sections 5 and 7 into this declaration as though fully set forth herein.

6. The City has elected to participate in a Watershed Management Plan or Enhanced Watershed Management Plan ("WMP/EWMP") that will be designed to address, in whole or in

part, the "Total Maximum Daily Load (TMDL")" provisions of the Permit as well other requirements of the Permit, including those set forth in this Declaration.

7. Based on my understanding of the Permit, I believe that the Permit requires the City to undertake the following programs either directly or through the mechanism of a WMP/EWMP, which represent new programs and/or higher levels of service or the shifting of state responsibilities to the City, which activities were not required by the 2001 Permit and which are unique to local government entities:

a. Implementation of TMDLs:

(i) Part VI.E.1.c. requires the permittees to "comply with the applicable water quality-based effluent limitations and/or receiving water limitations contained in Attachments L through R, consistent with the assumptions and requirements of the WLAs established in the TMDLs, including implementation plans and schedules, where provided for in the State adoption and approval of the TMDL (40 CFR 122.44(d)(1)(vii)(B); Cal. Wat. Code § 13263(a))."

(ii) Attachment K to the Permit sets forth the TMDLs with which the City must comply.

(iii) Attachments L through R of the Permit set forth the requirements of each TMDL and its "waste load allocations " with which the City must comply.

(iv) Part VI.B of the Permit requires the City "to comply with the [Monitoring and Reporting Program] and future revisions thereto, in Attachment E of this Order or may, in coordination with an approved Watershed Management Program per Part VI.C, implement a customized monitoring program that achieves the five Primary Objectives set forth in Part II.A of Attachment E and includes the elements set forth in Part II.E of Attachment E."

(v) Attachment E to the Permit requires the monitoring program to include monitoring at "TMDL receiving water compliance points" and other "TMDL monitoring requirements specified in approved TMDL Monitoring Plans." (Permit, Attachment E, Parts II.E.1 through 3 and Part V; *see also* Attachment E. Parts VI.A.1.b.(iii) and (iv), VI.B.2, VI.C.1.a, VI.D.1.a, VIII.B.1.b.(ii), IX.A.5, IX.C.1.a, IX.E.1.a and b, IX.G.1.b., and IX.G.2.)

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

b. <u>Requirements related to Discharge Prohibitions for Non-Stormwater</u>:

(i) Permit Part III.A.1 prohibits certain non-stormwater discharges through the municipal separate storm sewer system ("MS4") to receiving waters. I have been advised that this requirement exceeds the requirements of the Clean Water Act ("CWA").

(ii) Part III.A.2 requires the City to employ best management practices ("BMPs") for discharges from essential non-emergency firefighting activities and, with regard to unpermitted discharges by drinking water suppliers, to work with those suppliers on the conditions of their discharges.

(iii) Part III.A.4.a requires the City to develop and implement procedures covering non-permitted discharges of non-stormwater to the City's MS4 in compliance with the requirements of Part III.A.4.a.(i-vi) of the Permit.

(iv) Part III.A.4.b. requires the City to develop and implement procedures to minimize the discharge of landscape irrigation water into the MS4, including to coordinate with local water purveyors to promote water use efficiency, use of drought tolerant vegetation and use of less toxic options for pest control and landscape management and to develop and implement an outreach and education program to minimize the discharge of irrigation water and associated pollutants.

(v) Part III.A.4.c. requires the City to evaluate monitoring data collected pursuant to the Permit's Monitoring and Reporting Program (Permit Attachment E) and other associated data and information to determine, among other things, if authorized or conditionally authorized non-stormwater discharges are a source of pollutants that may be causing or contributing to an exceedance of receiving water limitations and/or water quality based effluent limitations.

(vi) Part III.A.4.d. requires the City to take action to address such non-stormwater discharges if they are found to be such a source of pollutants, through effective prohibition, conditions, diversions or treatment. These tasks involve, among other things, meeting with non-stormwater dischargers, identifying and analyzing the nature of non-stormwater discharges, the development and implementation of discharge procedures, conducting public education efforts and evaluating monitoring data.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

c. Public Information Program Requirements:

(i) Permit Part VI.D.5.a. requires the City to "measurably increase" the knowledge of target audiences about the MS4, the adverse impacts of stormwater pollution on receiving waters and potential solutions to mitigate impacts, to "measurably change" waste disposal and stormwater pollution generation behavior by developing and encouraging implementation of "appropriate alternatives" and to "involve and engage a diversity of socio-economic groups and ethnic communities" to participate in stormwater pollution impact mitigation.

(ii) Permit Part VI.D.5.b. the City to implement Public Information and Participation Program activities by participating in either a County-wide, Watershed Group-sponsored or individual effort.

(iii) Permit Part VI.D.5.c. requires the City to provide a means for public reporting of clogged catch basin inlets and illicit discharges/dumping, faded or missing catch basin labels and general stormwater and non-stormwater pollution prevention information through a telephone hotline or in public information or government pages of the telephone book, identify staff or departments serving as contact persons and providing current, updated hotline information. The City is also required to organize events targeted to residents and population subgroups to "educate and involve the community in storm water and non-storm water pollution prevent and clean-up (e.g., education seminars, clean-ups, and community catch basin stenciling)."

(iv) Permit Part VI.D.5.d. requires the City to conduct stormwater pollution prevention public service announcements and advertising campaigns and provide public education materials on the proper handling of vehicle waste fluids, house, and construction waste, pesticides and fertilizers (including the use of integrated pest management practices), green waste and animal

wastes. This Part further requires the City (a) to distribute public education materials at automotive parts stores, home improvement centers, lumber yards and hardware and paint stores, landscaping and gardening centers and pet shops and feed stores, and (b) to maintain stormwater websites or provide links to stormwater websites via the City's website, which must include educational material and opportunities for public participation in stormwater pollution and cleanup activities and provide schools within the City's jurisdiction with materials to education K-12 students on stormwater pollution. In each of these requirements, Permit Part VID.5.d. requires the City to "use effective strategies to educate and involve ethnic communities in storm water pollution prevention through culturally effective methods."

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

d. <u>Inventory and Inspections of Industrial/Commercial Sources</u>:

(i) Permit Part VI.D.6.b. requires the City to track nurseries and nursery centers and to include various information for each facility on the inventory, including the industrial classification code, the status of exposure of materials to stormwater, the name of the receiving water, whether the facility is tributary to a waterbody listed as impaired under CWA section 303(d) where the facility generates pollutants for which the waterbody is impaired, and whether the facility has filed a "No Exposure Certification" ("NEC") with the State Water Resources

Control Board ("State Board"). The City is required to update the inventory at least annually, through collection of information through field activities over from other means.

(ii) Permit Part VI.D.6.d. requires the City to inspect restaurants, automotive service facilities, retail gasoline outlets and nurseries and nursery centers twice during the Permit term, including an inspection within two years after the Permit's effective date. In such inspection, the the City is required, among other things, to evaluate whether the source is implementing effective source control BMPs for each corresponding activity and to require implementation of additional BMPs where stormwater from the facility discharged to the MS4 discharges to a Significant Ecological Area ("SEA"), a water body subject to TMDL provisions or a CWA section 303(d) listed waterbody.

(iii) Permit Part VI.D.6.e. requires the City to inspect industrial facilities, including those identified in 40 C.F.R. section 122.26(b)(14)(i-xi) and facilities identified in 40 C.F.R. section 122.26(d)(12)(iv)(C). In such inspections, the City is required to confirm that each facility has a current Waste Discharge Identification number for coverage under the State Board-issued General Industrial Activities Stormwater Permit or has applied for and received a no exposure certification, and to require implementation of additional BMPs where stormwater from the MS4 discharges to a waterbody subject to a TMDL or is a CWA section 303(d) listed impaired waterbodies. Additionally, for facilities discharging to MS4s that discharge to an SEA, the permittees, including the City, are required to require operators to implement additional pollutant-specific controls to reduce pollutants that are causing or contributing to exceedances of water quality standards.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

e. Post-Construction BMP Requirements:

(i) Permit Part VI.D.7.d.(iv)(1)(a) requires the City to implement a GIS or other electronic system for tracking projects that are required to have post-construction BMPs, including project identification, acreage, BMP type and description, BMP locations, dates of acceptance and maintenance agreements, inspection dates and summaries and corrective action.

(ii) Permit Part VI.D.7.d.(iv)(1)(b) requires the City to inspect all development sites upon completion of construction and before issuance of an occupancy certificate to ensure "proper installation" of Low Impact Development ("LID") measures, structural BMPs, treatment control BMPs and hydromodification control BMPs.

(iii) Permit Part VI.D.7.d.(iv)(1)(c) requires the City to develop a post-construction BMP checklist and to inspect at an interval of at least once every two years, City-operated post-construction BMPs to assess operations condition.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

f. Construction Site Requirements:

(i) Permit Part VI.D.8.g.(i) requires the City to develop an electronic system to inventory grading, encroachment, demolition, building or construction permits (or other municipal authorizations to move soil and/or construct or destruct that involves land disturbance).

(ii) Permit Part VI.D.8.g.(ii) requires the City to complete and update an inventory containing, among other items, contact information for a project, basic site information, the proximity of all water bodies, significant threats to water quality status, current construction phase where feasible, required inspection frequency, start and anticipated completion dates, whether the project has submitted a Notice of Intent to be covered under the State Board-issued General Construction Activities Stormwater Permit ("GCASP"), whether it has obtained GCASP coverage, the date the Erosion and Sediment Control Plan ("ESCP") was approved and post-construction structural BMPs subject to operation and maintenance requirements.

(iii) Permit Part VI.D.8.h requires the City to develop and implement review procedures for construction plan documents, inkling preparation and submittal of an appropriate ESCP, verification of GCASP or other permit coverage and other items. The Part further requires permittees, including the City, to develop and implement a checklist to conduct and document the review of each ESCP.

(iv) Permit Part VI.D.8.i.(i) requires the City to develop and implement technical standards for the selection, installation and maintenance of construction BMPs for all such sites within the City.

(v) Permit Part VI.D.8.i.(ii) requires that such BMPs be tailored to the risks posed by the project, as well as in minimum conformance with standards set forth in Permit Table 15, use of

BMPs meeting the requirements of Permit Tables 14 and 16 for constructions sites equal or greater than one acre or paving projects, detailed installation designs and cut sheets for use in ESCPs and maintenance expectations for each BMP or category of BMPs.

(vi) Permit PartVI.D.8.i.(iv) further requires that such technical standards must be "readily available" to the development community and must be "clearly referenced" within the City's stormwater or development services website, ordinance, permit approval process and/or ESCP review forms.

(vii) Permit Part VI.D.8.i.(v) requires local BMP technical standards to cover all items set forth in Tables 13, 14, 15 and 16 of the Permit.

(viii) Permit Part VI.D.8.j requires the City to inspect all construction sites of one acre or greater in size on the frequencies set forth in the Permit, which requires inspections prior to land disturbance activities, during active construction and at the conclusion of the project and as a condition to approving and/or issuing a Certificate of Occupancy. The frequency of inspections is set in addition in Table 17 of the Permit. As part of the inspection obligations, the permittees, including the City, must develop, implement and revise as necessary standard operating procedures that identify the inspection procedures to be followed by each permittee. Additionally, during inspections, the City must verify "active coverage" under the GCASP for specified projects; review the ESCP; inspect the site to determine whether all BMPs have been selected, installed, implemented and maintained; assess the appropriateness of planned and installed BMPs, and their effectiveness; visually observe and record non-stormwater discharge, potential illicit discharges and connections and potential discharge of pollutants in stormwater runoff; develop a written or electronic inspection report generated from a field inspection

checklist; and track the number of inspections for the site to ensure that it meets the minimum requirements of Permit Table 17.

(ix) Permit Part VI.D.8.l.(i-ii) requires the City to ensure training for "all staff whose primary job duties are related to implementing the construction storm water program," including plan reviewers and permitting staff with regard to the "technical review of local erosion and sediment control ordinance, local BMP technical standards, ESCP requirements, and the key objectives of the State Water Board QSD program, erosion sediment control/storm water inspectors in inspection procedures consistent with various standards. Additionally, if outside parties conduct inspections or review plans, the City is required to ensure that such staff are trained under the same requirements.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

g. <u>Public Agency Requirements</u>:

(i) Permit Part VI.D.9.c. requires the City to maintain an "updated inventory" of all permittee-owned or operated facilities that are potential sources of stormwater pollution, including 24 separate categories of facilities that are required to be in the inventory. The inventory must include the name and address of the facility, contact information, a narrative description of activities performed and potential pollution sources, coverage under any individual or general NPDES permits or waivers. The inventory must be updated at least once during the

five-year term of the Permit with information collected through field activities or other means.

(ii) Permit Part VI.D.9.d.(i) requires the City to develop an inventory of "retrofitting opportunities" in areas of existing development.

(iii) Permit Part VI.D.9.d.(ii-iii) requires the City to screen existing areas of development "to identify candidate areas for retrofitting using watershed models or other screening level tools" and then evaluate and rank areas of existing development to prioritize retrofitting candidates.

(iv) Permit Part VI.D.9.d.(iv) requires the City to consider the results of the evaluation by giving "highly feasible" projects a "high priority" to implement source control and treatment control BMPs in the their Storm Water Management Plan ("SWMP") and consider high priority retrofit projects as candidates for off-site mitigation for new development and redevelopment projects.

(v) Permit Part VI.D.9.d.(v) requires the City to cooperate with private landowners to "encourage site specific retrofitting projects." In such cooperation, demonstration retrofit projects, retrofits on public lands and easements, education and outreach, subsidies for retrofit projects, requiring retrofit projects as enforcement, mitigation or ordinance compliance, public and private partnerships, fees for existing discharges to the MS4 and reduction of such fees for retrofit implementation must be considered.

(vi) Permit Part VI.D.9.g.(ii) requires the City to implement an Integrated Pest Management ("IPM") program, including restrictions on the use of pesticides, restricting treatments only to remove the target organism, selection of pest controls that minimize risks to human health, "beneficial non-target organisms" and the environment, partnering with other

agencies and organizations to "encourage" the use of IPM and adopt and "verifiably implement" policies, procedures and/or ordinances requiring the minimization of pesticide use and encouraging the use of IPM techniques for public agency facilities and activities. Additionally, the City must commit and schedule to reduce the use of pesticides that cause impairments of surface waters by preparing and updating annually an inventory of pesticides, quantify pesticide use by staff and contractors and demonstrate implementation of IPM alternatives where feasible to reduce pesticide use.

(vii) Permit Part VI.D.9.h.(vii) requires permittees in areas not subject to a Trash TMDL, to install trash excluders, or equivalent devices, on or in catch basins or outfalls, except where such installation would cause flooding, unless lack of maintenance that causes the flooding. Permittees, including the City, may also employ alternative or enhanced BMPs that "provide substantially equivalent removal of trash." If alternative means are employed, the City must demonstrate that such BMPs "provide equivalent trash removal performance as excluders."

(viii) Permit Part VI.D.9.k.(ii) requires the City to train all employees and contractors "who use or have the potential to use pesticides or fertilizers" that address the potential for pesticide-related surface water toxicity, in the proper use, handling, and disposal of pesticides, least toxic methods of pest prevention and control, including IPM and the reduction of pesticide use.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years

during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

h. Illicit Connection and Discharge Requirements:

(i) Permit Part VI.D.10.d.(iii) requires the City to "ensure that signage adjacent to open channels . . . include information regarding dumping prohibitions and public reporting of illicit discharges."

(ii) Permit Part VI.D.10.d.(iv) requires the City to develop and maintain written procedures that document how complaint calls are received, documented and tracked "to ensure that all complaints are adequately addressed." Such procedures must be "evaluated to determine whether changes or updates are needed to ensure that the procedures adequately document the methods employed by the Permittee."

(iii) Permit Part VI.D.10.d.(v) the City to maintain documentation of complaint calls and to record the location of the reported spill or illicit discharge and the action undertaken in response.

(iv) Permit Part VI.D.10.e.(i) requires, in pertinent part, that the City implement a "spill response plan" for all sewage and other spills that may discharge into its MS4.

(v) Permit Part VI.D.10.e.(i)(1) requires that the plan must identify agencies responsible for spill response and cleanup, phone numbers and e-mail addresses for contacts and shall further address coordination with spill response teams "throughout all appropriate departments, programs and agencies so that maximum water quality protection is provided."

(vi) Part VI.D.10.e.(i)(3-4) require the City to respond to spills for containment within four hours of become aware of the spill, or if on private property, within two hours of gaining

legal access to the property and reporting of spills that may endanger health or the environment to appropriate public health agencies and the Office of Emergency Services ("OES").

I am informed and believed that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

8. I am informed and believe that there are no dedicated state, federal or regional funds that are or will be available to pay for any of the new and/or upgraded programs and activities set forth in this Declaration. I am not aware of any other fee or tax that the City would have the discretion to impose under California law to recover the full cost of these programs and activities.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 27th day of June, 2014, at Rancho Palos Verdes, California.

Carolynn Petru

DECLARATION OF JOE HOEFGEN

CITY OF REDONDO BEACH

I, Joe Hoefgen, hereby declare and state as follows:

1. I am Interim City Manager for the City of Redondo Beach ("City"). In that capacity, I share responsibility for the compliance of the City with regard to the requirements of California Regional Water Quality Control Board, Los Angeles Region ("LARWQCB") Order No. R4-2012-0175 ("the Permit") as they apply to the City.

2. I have reviewed sections of the Permit and its attachments as set forth herein and am familiar with those provisions. I am also familiar with how the Permit changed requirements that were previously imposed on the City by the prior permit that had issued to the City by the LARWQCB in 2001 ("2001 Permit").

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

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

5. In Section 5 and Section 7 of this Test Claim, which contains exhibits to the test claim filed by the City and other permittees under the Permit, the specific sections of the Permit at issue in the test claim have been set forth. I hereby incorporate such provisions of Sections 5 and 7 into this declaration as though fully set forth herein.

6. The City has elected to participate in a Watershed Management Plan or Enhanced Watershed Management Plan ("WMP/EWMP") that will be designed to address, in whole or in

part, the "Total Maximum Daily Load (TMDL")" provisions of the Permit as well other requirements of the Permit, including those set forth in this Declaration.

7. Based on my understanding of the Permit, I believe that the Permit requires the City to undertake the following programs either directly or through the mechanism of a WMP/EWMP, which represent new programs and/or higher levels of service or the shifting of state responsibilities to the City, which activities were not required by the 2001 Permit and which are unique to local government entities:

a. Implementation of TMDLs:

(i) Part VI.E.1.c. requires the permittees to "comply with the applicable water quality-based effluent limitations and/or receiving water limitations contained in Attachments L through R, consistent with the assumptions and requirements of the WLAs established in the TMDLs, including implementation plans and schedules, where provided for in the State adoption and approval of the TMDL (40 CFR 122.44(d)(1)(vii)(B); Cal. Wat. Code § 13263(a))."

(ii) Attachment K to the Permit sets forth the TMDLs with which the City must comply.

(iii) Attachments L through R of the Permit set forth the requirements of each TMDL and its "waste load allocations " with which the City must comply.

(iv) Part VI.B of the Permit requires the City "to comply with the [Monitoring and Reporting Program] and future revisions thereto, in Attachment E of this Order or may, in coordination with an approved Watershed Management Program per Part VI.C, implement a customized monitoring program that achieves the five Primary Objectives set forth in Part II.A of Attachment E and includes the elements set forth in Part II.E of Attachment E."

(v) Attachment E to the Permit requires the monitoring program to include monitoring at "TMDL receiving water compliance points" and other "TMDL monitoring requirements specified in approved TMDL Monitoring Plans." (Permit, Attachment E, Parts II.E.1 through 3 and Part V; *see also* Attachment E. Parts VI.A.1.b.(iii) and (iv), VI.B.2, VI.C.1.a, VI.D.1.a, VIII.B.1.b.(ii), IX.A.5, IX.C.1.a, IX.E.1.a and b, IX.G.1.b., and IX.G.2.)

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

b. <u>Requirements related to Discharge Prohibitions for Non-Stormwater</u>:

(i) Permit Part III.A.1 prohibits certain non-stormwater discharges through the municipal separate storm sewer system ("MS4") to receiving waters. I have been advised that this requirement exceeds the requirements of the Clean Water Act ("CWA").

(ii) Part III.A.2 requires the City to employ best management practices ("BMPs") for discharges from essential non-emergency firefighting activities and, with regard to unpermitted discharges by drinking water suppliers, to work with those suppliers on the conditions of their discharges.

(iii) Part III.A.4.a requires the City to develop and implement procedures covering non-permitted discharges of non-stormwater to the City's MS4 in compliance with the requirements of Part III.A.4.a.(i-vi) of the Permit.

(iv) Part III.A.4.b. requires the City to develop and implement procedures to minimize the discharge of landscape irrigation water into the MS4, including to coordinate with local water purveyors to promote water use efficiency, use of drought tolerant vegetation and use of less toxic options for pest control and landscape management and to develop and implement an outreach and education program to minimize the discharge of irrigation water and associated pollutants.

(v) Part III.A.4.c. requires the City to evaluate monitoring data collected pursuant to the Permit's Monitoring and Reporting Program (Permit Attachment E) and other associated data and information to determine, among other things, if authorized or conditionally authorized non-stormwater discharges are a source of pollutants that may be causing or contributing to an exceedance of receiving water limitations and/or water quality based effluent limitations.

(vi) Part III.A.4.d. requires the City to take action to address such non-stormwater discharges if they are found to be such a source of pollutants, through effective prohibition, conditions, diversions or treatment. These tasks involve, among other things, meeting with non-stormwater dischargers, identifying and analyzing the nature of non-stormwater discharges, the development and implementation of discharge procedures, conducting public education efforts and evaluating monitoring data.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

c. Public Information Program Requirements:

(i) Permit Part VI.D.5.a. requires the City to "measurably increase" the knowledge of target audiences about the MS4, the adverse impacts of stormwater pollution on receiving waters and potential solutions to mitigate impacts, to "measurably change" waste disposal and stormwater pollution generation behavior by developing and encouraging implementation of "appropriate alternatives" and to "involve and engage a diversity of socio-economic groups and ethnic communities" to participate in stormwater pollution impact mitigation.

(ii) Permit Part VI.D.5.b. the City to implement Public Information and Participation Program activities by participating in either a County-wide, Watershed Group-sponsored or individual effort.

(iii) Permit Part VI.D.5.c. requires the City to provide a means for public reporting of clogged catch basin inlets and illicit discharges/dumping, faded or missing catch basin labels and general stormwater and non-stormwater pollution prevention information through a telephone hotline or in public information or government pages of the telephone book, identify staff or departments serving as contact persons and providing current, updated hotline information. The City is also required to organize events targeted to residents and population subgroups to "educate and involve the community in storm water and non-storm water pollution prevent and clean-up (e.g., education seminars, clean-ups, and community catch basin stenciling)."

(iv) Permit Part VI.D.5.d. requires the City to conduct stormwater pollution prevention public service announcements and advertising campaigns and provide public education materials on the proper handling of vehicle waste fluids, house, and construction waste, pesticides and fertilizers (including the use of integrated pest management practices), green waste and animal

wastes. This Part further requires the City (a) to distribute public education materials at automotive parts stores, home improvement centers, lumber yards and hardware and paint stores, landscaping and gardening centers and pet shops and feed stores, and (b) to maintain stormwater websites or provide links to stormwater websites via the City's website, which must include educational material and opportunities for public participation in stormwater pollution and cleanup activities and provide schools within the City's jurisdiction with materials to education K-12 students on stormwater pollution. In each of these requirements, Permit Part VID.5.d. requires the City to "use effective strategies to educate and involve ethnic communities in storm water pollution prevention through culturally effective methods."

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

d. <u>Inventory and Inspections of Industrial/Commercial Sources</u>:

(i) Permit Part VI.D.6.b. requires the City to track nurseries and nursery centers and to include various information for each facility on the inventory, including the industrial classification code, the status of exposure of materials to stormwater, the name of the receiving water, whether the facility is tributary to a waterbody listed as impaired under CWA section 303(d) where the facility generates pollutants for which the waterbody is impaired, and whether the facility has filed a "No Exposure Certification" ("NEC") with the State Water Resources

Control Board ("State Board"). The City is required to update the inventory at least annually, through collection of information through field activities over from other means.

(ii) Permit Part VI.D.6.d. requires the City to inspect restaurants, automotive service facilities, retail gasoline outlets and nurseries and nursery centers twice during the Permit term, including an inspection within two years after the Permit's effective date. In such inspection, the City is required, among other things, to evaluate whether the source is implementing effective source control BMPs for each corresponding activity and to require implementation of additional BMPs where stormwater from the facility discharged to the MS4 discharges to a Significant Ecological Area ("SEA"), a water body subject to TMDL provisions or a CWA section 303(d) listed waterbody.

(iii) Permit Part VI.D.6.e. requires the City to inspect industrial facilities, including those identified in 40 C.F.R. section 122.26(b)(14)(i-xi) and facilities identified in 40 C.F.R. section 122.26(d)(12)(iv)(C). In such inspections, the City is required to confirm that each facility has a current Waste Discharge Identification number for coverage under the State Board-issued General Industrial Activities Stormwater Permit or has applied for and received a no exposure certification, and to require implementation of additional BMPs where stormwater from the MS4 discharges to a waterbody subject to a TMDL or is a CWA section 303(d) listed impaired waterbodies. Additionally, for facilities discharging to MS4s that discharge to an SEA, the permittees, including the City, are required to require operators to implement additional pollutant-specific controls to reduce pollutants that are causing or contributing to exceedances of water quality standards.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

e. Post-Construction BMP Requirements:

(i) Permit Part VI.D.7.d.(iv)(1)(a) requires the City to implement a GIS or other electronic system for tracking projects that are required to have post-construction BMPs, including project identification, acreage, BMP type and description, BMP locations, dates of acceptance and maintenance agreements, inspection dates and summaries and corrective action.

(ii) Permit Part VI.D.7.d.(iv)(1)(b) requires the City to inspect all development sites upon completion of construction and before issuance of an occupancy certificate to ensure "proper installation" of Low Impact Development ("LID") measures, structural BMPs, treatment control BMPs and hydromodification control BMPs.

(iii) Permit Part VI.D.7.d.(iv)(1)(c) requires the City to develop a post-construction BMP checklist and to inspect at an interval of at least once every two years, City-operated post-construction BMPs to assess operations condition.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

f. Construction Site Requirements:

(i) Permit Part VI.D.8.g.(i) requires the City to develop an electronic system to inventory grading, encroachment, demolition, building or construction permits (or other municipal authorizations to move soil and/or construct or destruct that involves land disturbance).

(ii) Permit Part VI.D.8.g.(ii) requires the City to complete and update an inventory containing, among other items, contact information for a project, basic site information, the proximity of all water bodies, significant threats to water quality status, current construction phase where feasible, required inspection frequency, start and anticipated completion dates, whether the project has submitted a Notice of Intent to be covered under the State Board-issued General Construction Activities Stormwater Permit ("GCASP"), whether it has obtained GCASP coverage, the date the Erosion and Sediment Control Plan ("ESCP") was approved and post-construction structural BMPs subject to operation and maintenance requirements.

(iii) Permit Part VI.D.8.h requires the City to develop and implement review procedures for construction plan documents, inkling preparation and submittal of an appropriate ESCP, verification of GCASP or other permit coverage and other items. The Part further requires permittees, including the City, to develop and implement a checklist to conduct and document the review of each ESCP.

(iv) Permit Part VI.D.8.i.(i) requires the City to develop and implement technical standards for the selection, installation and maintenance of construction BMPs for all such sites within the City.

(v) Permit Part VI.D.8.i.(ii) requires that such BMPs be tailored to the risks posed by the project, as well as in minimum conformance with standards set forth in Permit Table 15, use of

BMPs meeting the requirements of Permit Tables 14 and 16 for constructions sites equal or greater than one acre or paving projects, detailed installation designs and cut sheets for use in ESCPs and maintenance expectations for each BMP or category of BMPs.

(vi) Permit PartVI.D.8.i.(iv) further requires that such technical standards must be "readily available" to the development community and must be "clearly referenced" within the City's stormwater or development services website, ordinance, permit approval process and/or ESCP review forms.

(vii) Permit Part VI.D.8.i.(v) requires local BMP technical standards to cover all items set forth in Tables 13, 14, 15 and 16 of the Permit.

(viii) Permit Part VI.D.8.j requires the City to inspect all construction sites of one acre or greater in size on the frequencies set forth in the Permit, which requires inspections prior to land disturbance activities, during active construction and at the conclusion of the project and as a condition to approving and/or issuing a Certificate of Occupancy. The frequency of inspections is set in addition in Table 17 of the Permit. As part of the inspection obligations, the permittees, including the City, must develop, implement and revise as necessary standard operating procedures that identify the inspection procedures to be followed by each permittee. Additionally, during inspections, the City must verify "active coverage" under the GCASP for specified projects; review the ESCP; inspect the site to determine whether all BMPs have been selected, installed, implemented and maintained; assess the appropriateness of planned and installed BMPs, and their effectiveness; visually observe and record non-stormwater discharge, potential illicit discharges and connections and potential discharge of pollutants in stormwater runoff; develop a written or electronic inspection report generated from a field inspection

checklist; and track the number of inspections for the site to ensure that it meets the minimum requirements of Permit Table 17.

(ix) Permit Part VI.D.8.l.(i-ii) requires the City to ensure training for "all staff whose primary job duties are related to implementing the construction storm water program," including plan reviewers and permitting staff with regard to the "technical review of local erosion and sediment control ordinance, local BMP technical standards, ESCP requirements, and the key objectives of the State Water Board QSD program, erosion sediment control/storm water inspectors in inspection procedures consistent with various standards. Additionally, if outside parties conduct inspections or review plans, the City is required to ensure that such staff are trained under the same requirements.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

g. <u>Public Agency Requirements</u>:

(i) Permit Part VI.D.9.c. requires the City to maintain an "updated inventory" of all permittee-owned or operated facilities that are potential sources of stormwater pollution, including 24 separate categories of facilities that are required to be in the inventory. The inventory must include the name and address of the facility, contact information, a narrative description of activities performed and potential pollution sources, coverage under any individual or general NPDES permits or waivers. The inventory must be updated at least once during the

five-year term of the Permit with information collected through field activities or other means.

(ii) Permit Part VI.D.9.d.(i) requires the City to develop an inventory of "retrofitting opportunities" in areas of existing development.

(iii) Permit Part VI.D.9.d.(ii-iii) requires the City to screen existing areas of development "to identify candidate areas for retrofitting using watershed models or other screening level tools" and then evaluate and rank areas of existing development to prioritize retrofitting candidates.

(iv) Permit Part VI.D.9.d.(iv) requires the City to consider the results of the evaluation by giving "highly feasible" projects a "high priority" to implement source control and treatment control BMPs in the their Storm Water Management Plan ("SWMP") and consider high priority retrofit projects as candidates for off-site mitigation for new development and redevelopment projects.

(v) Permit Part VI.D.9.d.(v) requires the City to cooperate with private landowners to "encourage site specific retrofitting projects." In such cooperation, demonstration retrofit projects, retrofits on public lands and easements, education and outreach, subsidies for retrofit projects, requiring retrofit projects as enforcement, mitigation or ordinance compliance, public and private partnerships, fees for existing discharges to the MS4 and reduction of such fees for retrofit implementation must be considered.

(vi) Permit Part VI.D.9.g.(ii) requires the City to implement an Integrated Pest Management ("IPM") program, including restrictions on the use of pesticides, restricting treatments only to remove the target organism, selection of pest controls that minimize risks to human health, "beneficial non-target organisms" and the environment, partnering with other

agencies and organizations to "encourage" the use of IPM and adopt and "verifiably implement" policies, procedures and/or ordinances requiring the minimization of pesticide use and encouraging the use of IPM techniques for public agency facilities and activities. Additionally, the City must commit and schedule to reduce the use of pesticides that cause impairments of surface waters by preparing and updating annually an inventory of pesticides, quantify pesticide use by staff and contractors and demonstrate implementation of IPM alternatives where feasible to reduce pesticide use.

(vii) Permit Part VI.D.9.h.(vii) requires permittees in areas not subject to a Trash TMDL, to install trash excluders, or equivalent devices, on or in catch basins or outfalls, except where such installation would cause flooding, unless lack of maintenance that causes the flooding. Permittees, including the City, may also employ alternative or enhanced BMPs that "provide substantially equivalent removal of trash." If alternative means are employed, the City must demonstrate that such BMPs "provide equivalent trash removal performance as excluders."

(viii) Permit Part VI.D.9.k.(ii) requires the City to train all employees and contractors "who use or have the potential to use pesticides or fertilizers" that address the potential for pesticide-related surface water toxicity, in the proper use, handling, and disposal of pesticides, least toxic methods of pest prevention and control, including IPM and the reduction of pesticide use.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years

during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

h. Illicit Connection and Discharge Requirements:

(i) Permit Part VI.D.10.d.(iii) requires the City to "ensure that signage adjacent to open channels . . . include information regarding dumping prohibitions and public reporting of illicit discharges."

(ii) Permit Part VI.D.10.d.(iv) requires the City to develop and maintain written procedures that document how complaint calls are received, documented and tracked "to ensure that all complaints are adequately addressed." Such procedures must be "evaluated to determine whether changes or updates are needed to ensure that the procedures adequately document the methods employed by the Permittee."

(iii) Permit Part VI.D.10.d.(v) the City to maintain documentation of complaint calls and to record the location of the reported spill or illicit discharge and the action undertaken in response.

(iv) Permit Part VI.D.10.e.(i) requires, in pertinent part, that the City implement a "spill response plan" for all sewage and other spills that may discharge into its MS4.

(v) Permit Part VI.D.10.e.(i)(1) requires that the plan must identify agencies responsible for spill response and cleanup, phone numbers and e-mail addresses for contacts and shall further address coordination with spill response teams "throughout all appropriate departments, programs and agencies so that maximum water quality protection is provided."

(vi) Part VI.D.10.e.(i)(3-4) require the City to respond to spills for containment within four hours of become aware of the spill, or if on private property, within two hours of gaining

legal access to the property and reporting of spills that may endanger health or the environment to appropriate public health agencies and the Office of Emergency Services ("OES").

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 25th day of June, 2014, at Redondo Beach, California.

DECLARATION OF LUCY GARCIA

CITY OF SAN MARINO

I, Lucy Garcia, hereby declare and state as follows:

1. I am an employee of the City of San Marino ("City"). In that capacity, I share responsibility for the compliance of the City with regard to the requirements of California Regional Water Quality Control Board, Los Angeles Region ("LARWQCB") Order No. R4-2012-0175 ("the Permit") as they apply to the City.

2. I have reviewed sections of the Permit and its attachments as set forth herein and am familiar with those provisions. I am also familiar with how the Permit changed requirements that were previously imposed on the City by the prior permit that had issued to the City by the LARWQCB in 2001 ("2001 Permit").

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

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

5. In Section 5 and Section 7 of this Test Claim, which contains exhibits to the test claim filed by the City and other permittees under the Permit, the specific sections of the Permit at issue in the test claim have been set forth. I hereby incorporate such provisions of Sections 5 and 7 into this declaration as though fully set forth herein.

6. The City has elected to participate in a Watershed Management Plan or Enhanced Watershed Management Plan ("WMP/EWMP") that will be designed to address, in whole or in

part, the "Total Maximum Daily Load (TMDL")" provisions of the Permit as well other requirements of the Permit, including those set forth in this Declaration.

7. Based on my understanding of the Permit, I believe that the Permit requires the City to undertake the following programs either directly or through the mechanism of a WMP/EWMP, which represent new programs and/or higher levels of service or the shifting of state responsibilities to the City, which activities were not required by the 2001 Permit and which are unique to local government entities:

a. Implementation of TMDLs:

(i) Part VI.E.1.c. requires the permittees to "comply with the applicable water quality-based effluent limitations and/or receiving water limitations contained in Attachments L through R, consistent with the assumptions and requirements of the WLAs established in the TMDLs, including implementation plans and schedules, where provided for in the State adoption and approval of the TMDL (40 CFR 122.44(d)(1)(vii)(B); Cal. Wat. Code § 13263(a))."

(ii) Attachment K to the Permit sets forth the TMDLs with which the City must comply.

(iii) Attachments L through R of the Permit set forth the requirements of each TMDL and its "waste load allocations " with which the City must comply.

(iv) Part VI.B of the Permit requires the City "to comply with the [Monitoring and Reporting Program] and future revisions thereto, in Attachment E of this Order or may, in coordination with an approved Watershed Management Program per Part VI.C, implement a customized monitoring program that achieves the five Primary Objectives set forth in Part II.A of Attachment E and includes the elements set forth in Part II.E of Attachment E."

(v) Attachment E to the Permit requires the monitoring program to include monitoring at "TMDL receiving water compliance points" and other "TMDL monitoring requirements specified in approved TMDL Monitoring Plans." (Permit, Attachment E, Parts II.E.1 through 3 and Part V; *see also* Attachment E. Parts VI.A.1.b.(iii) and (iv), VI.B.2, VI.C.1.a, VI.D.1.a, VIII.B.1.b.(ii), IX.A.5, IX.C.1.a, IX.E.1.a and b, IX.G.1.b., and IX.G.2.)

I am informed and believed that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

b. <u>Requirements related to Discharge Prohibitions for Non-Stormwater</u>:

(i) Permit Part III.A.1 prohibits certain non-stormwater discharges through the municipal separate storm sewer system ("MS4") to receiving waters. I have been advised that this requirement exceeds the requirements of the Clean Water Act ("CWA").

(ii) Part III.A.2 requires the City to employ best management practices ("BMPs") for discharges from essential non-emergency firefighting activities and, with regard to unpermitted discharges by drinking water suppliers, to work with those suppliers on the conditions of their discharges.

(iii) Part III.A.4.a requires the City to develop and implement procedures covering non-permitted discharges of non-stormwater to the City's MS4 in compliance with the requirements of Part III.A.4.a.(i-vi) of the Permit.

(iv) Part III.A.4.b. requires the City to develop and implement procedures to minimize the discharge of landscape irrigation water into the MS4, including to coordinate with local water purveyors to promote water use efficiency, use of drought tolerant vegetation and use of less toxic options for pest control and landscape management and to develop and implement an outreach and education program to minimize the discharge of irrigation water and associated pollutants.

(v) Part III.A.4.c. requires the City to evaluate monitoring data collected pursuant to the Permit's Monitoring and Reporting Program (Permit Attachment E) and other associated data and information to determine, among other things, if authorized or conditionally authorized non-stormwater discharges are a source of pollutants that may be causing or contributing to an exceedance of receiving water limitations and/or water quality based effluent limitations.

(vi) Part III.A.4.d. requires the City to take action to address such non-stormwater discharges if they are found to be such a source of pollutants, through effective prohibition, conditions, diversions or treatment. These tasks involve, among other things, meeting with non-stormwater dischargers, identifying and analyzing the nature of non-stormwater discharges, the development and implementation of discharge procedures, conducting public education efforts and evaluating monitoring data.

I am informed and believed that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

c. **Public Information Program Requirements**:

(i) Permit Part VI.D.5.a. requires the City to "measurably increase" the knowledge of target audiences about the MS4, the adverse impacts of stormwater pollution on receiving waters and potential solutions to mitigate impacts, to "measurably change" waste disposal and stormwater pollution generation behavior by developing and encouraging implementation of "appropriate alternatives" and to "involve and engage a diversity of socio-economic groups and ethnic communities" to participate in stormwater pollution impact mitigation.

(ii) Permit Part VI.D.5.b. the City to implement Public Information and Participation Program activities by participating in either a County-wide, Watershed Group-sponsored or individual effort.

(iii) Permit Part VI.D.5.c. requires the City to provide a means for public reporting of clogged catch basin inlets and illicit discharges/dumping, faded or missing catch basin labels and general stormwater and non-stormwater pollution prevention information through a telephone hotline or in public information or government pages of the telephone book, identify staff or departments serving as contact persons and providing current, updated hotline information. The City is also required to organize events targeted to residents and population subgroups to "educate and involve the community in storm water and non-storm water pollution prevent and clean-up (e.g., education seminars, clean-ups, and community catch basin stenciling)."

(iv) Permit Part VI.D.5.d. requires the City to conduct stormwater pollution prevention public service announcements and advertising campaigns and provide public education materials on the proper handling of vehicle waste fluids, house, and construction waste, pesticides and fertilizers (including the use of integrated pest management practices), green waste and animal

wastes. This Part further requires the City (a) to distribute public education materials at automotive parts stores, home improvement centers, lumber yards and hardware and paint stores, landscaping and gardening centers and pet shops and feed stores, and (b) to maintain stormwater websites or provide links to stormwater websites via the City's website, which must include educational material and opportunities for public participation in stormwater pollution and cleanup activities and provide schools within the City's jurisdiction with materials to education K-12 students on stormwater pollution. In each of these requirements, Permit Part VID.5.d. requires the City to "use effective strategies to educate and involve ethnic communities in storm water pollution prevention through culturally effective methods."

I am informed and believed that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

d. <u>Inventory and Inspections of Industrial/Commercial Sources</u>:

(i) Permit Part VI.D.6.b. requires the City to track nurseries and nursery centers and to include various information for each facility on the inventory, including the industrial classification code, the status of exposure of materials to stormwater, the name of the receiving water, whether the facility is tributary to a waterbody listed as impaired under CWA section 303(d) where the facility generates pollutants for which the waterbody is impaired, and whether the facility has filed a "No Exposure Certification" ("NEC") with the State Water Resources

Control Board ("State Board"). The City is required to update the inventory at least annually, through collection of information through field activities over from other means.

(ii) Permit Part VI.D.6.d. requires the City to inspect restaurants, automotive service facilities, retail gasoline outlets and nurseries and nursery centers twice during the Permit term, including an inspection within two years after the Permit's effective date. In such inspection, the the City is required, among other things, to evaluate whether the source is implementing effective source control BMPs for each corresponding activity and to require implementation of additional BMPs where stormwater from the facility discharged to the MS4 discharges to a Significant Ecological Area ("SEA"), a water body subject to TMDL provisions or a CWA section 303(d) listed waterbody.

(iii) Permit Part VI.D.6.e. requires the City to inspect industrial facilities, including those identified in 40 C.F.R. section 122.26(b)(14)(i-xi) and facilities identified in 40 C.F.R. section 122.26(d)(12)(iv)(C). In such inspections, the City is required to confirm that each facility has a current Waste Discharge Identification number for coverage under the State Board-issued General Industrial Activities Stormwater Permit or has applied for and received a no exposure certification, and to require implementation of additional BMPs where stormwater from the MS4 discharges to a waterbody subject to a TMDL or is a CWA section 303(d) listed impaired waterbodies. Additionally, for facilities discharging to MS4s that discharge to an SEA, the permittees, including the City, are required to require operators to implement additional pollutant-specific controls to reduce pollutants that are causing or contributing to exceedances of water quality standards.

I am informed and believed that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

e. **Post-Construction BMP Requirements**:

(i) Permit Part VI.D.7.d.(iv)(1)(a) requires the City to implement a GIS or other electronic system for tracking projects that are required to have post-construction BMPs, including project identification, acreage, BMP type and description, BMP locations, dates of acceptance and maintenance agreements, inspection dates and summaries and corrective action.

(ii) Permit Part VI.D.7.d.(iv)(1)(b) requires the City to inspect all development sites upon completion of construction and before issuance of an occupancy certificate to ensure "proper installation" of Low Impact Development ("LID") measures, structural BMPs, treatment control BMPs and hydromodification control BMPs.

(iii) Permit Part VI.D.7.d.(iv)(1)(c) requires the City to develop a post-construction BMP checklist and to inspect at an interval of at least once every two years, City-operated post-construction BMPs to assess operations condition.

I am informed and believed that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

f. Construction Site Requirements:

(i) Permit Part VI.D.8.g.(i) requires the City to develop an electronic system to inventory grading, encroachment, demolition, building or constrnction permits (or other municipal authorizations to move soil and/or construct or destruct that involves land disturbance).

(ii) Permit Part VI.D.8.g.(ii) requires the City to complete and update an inventory containing, among other items, contact information for a project, basic site information, the proximity of all water bodies, significant threats to water quality status, current construction phase where feasible, required inspection frequency, start and anticipated completion dates, whether the project has submitted a Notice of Intent to be covered under the State Board-issued General Construction Activities Stormwater Permit ("GCASP"), whether it has obtained GCASP coverage, the date the Erosion and Sediment Control Plan ("ESCP") was approved and post-construction structural BMPs subject to operation and maintenance requirements.

(iii) Permit Part VI.D.8.h requires the City to develop and implement review procedures for construction plan documents, inkling preparation and submittal of an appropriate ESCP, verification of GCASP or other permit coverage and other items. The Part further requires permittees, including the City, to develop and implement a checklist to conduct and document the review of each ESCP.

(iv) Permit Part VI.D.8.i.(i) requires the City to develop and implement technical standards for the selection, installation and maintenance of construction BMPs for all such sites within the City.

(v) Permit Part VI.D.8.i.(ii) requires that such BMPs be tailored to the risks posed by the project, as well as in minimum conformance with standards set forth in Permit Table 15, use of

BMPs meeting the requirements of Permit Tables 14 and 16 for constructions sites equal or greater than one acre or paving projects, detailed installation designs and cut sheets for use in ESCPs and maintenance expectations for each BMP or category of BMPs.

(vi) Permit PartVI.D.8.i.(iv) further requires that such technical standards must be "readily available" to the development community and must be "clearly referenced" within the City's stormwater or development services website, ordinance, permit approval process and/or ESCP review forms.

(vii) Permit Part VI.D.8.i.(v) requires local BMP technical standards to cover all items set forth in Tables 13, 14, 15 and 16 of the Permit.

(viii) Permit Part VI.D.8.j requires the City to inspect all construction sites of one acre or greater in size on the frequencies set forth in the Permit, which requires inspections prior to land disturbance activities, during active construction and at the conclusion of the project and as a condition to approving and/or issuing a Certificate of Occupancy. The frequency of inspections is set in addition in Table 17 of the Permit. As part of the inspection obligations, the permittees, including the City, must develop, implement and revise as necessary standard operating procedures that identify the inspection procedures to be followed by each permittee. Additionally, during inspections, the City must verify "active coverage" under the GCASP for specified projects; review the ESCP; inspect the site to determine whether all BMPs have been selected, installed, implemented and maintained; assess the appropriateness of planned and installed BMPs, and their effectiveness; visually observe and record non-stormwater discharge, potential illicit discharges and connections and potential discharge of pollutants in stormwater runoff; develop a written or electronic inspection report generated from a field inspection

checklist; and track the number of inspections for the site to ensure that it meets the minimum requirements of Permit Table 17.

(ix) Permit Part VI.D.8.1.(i-ii) requires the City to ensure training for "all staff whose primary job duties are related to implementing the construction storm water program," including plan reviewers and permitting staff with regard to the "technical review of local erosion and sediment control ordinance, local BMP technical standards, ESCP requirements, and the key objectives of the State Water Board QSD program, erosion sediment control/storm water inspectors in inspection procedures consistent with various standards. Additionally, if outside parties conduct inspections or review plans, the City is required to ensure that such staff are trained under the same requirements.

I am informed and believed that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

g. Public Agency Requirements:

(i) Permit Part VI.D.9.c. requires the City to maintain an "updated inventory" of all permittee-owned or operated facilities that are potential sources of stormwater pollution, including 24 separate categories of facilities that are required to be in the inventory. The inventory must include the name and address of the facility, contact information, a narrative description of activities performed and potential pollution sources, coverage under any individual or general NPDES permits or waivers. The inventory must be updated at least once during the

five-year term of the Permit with information collected through field activities or other means.

(ii) Permit Part VI.D.9.d.(i) requires the City to develop an inventory of "retrofitting opportunities" in areas of existing development.

(iii) Permit Part VI.D.9.d.(ii-iii) requires the City to screen existing areas of development "to identify candidate areas for retrofitting using watershed models or other screening level tools" and then evaluate and rank areas of existing development to prioritize retrofitting candidates.

(iv) Permit Part VI.D.9.d.(iv) requires the City to consider the results of the evaluation by giving "highly feasible" projects a "high priority" to implement source control and treatment control BMPs in the their Storm Water Management Plan ("SWMP") and consider high priority retrofit projects as candidates for off-site mitigation for new development and redevelopment projects.

(v) Permit Part VI.D.9.d.(v) requires the City to cooperate with private landowners to "encourage site specific retrofitting projects." In such cooperation, demonstration retrofit projects, retrofits on public lands and easements, education and outreach, subsidies for retrofit projects, requiring retrofit projects as enforcement, mitigation or ordinance compliance, public and private partnerships, fees for existing discharges to the MS4 and reduction of such fees for retrofit implementation must be considered.

(vi) Permit Part VI.D.9.g.(ii) requires the City to implement an Integrated Pest Management ("IPM") program, including restrictions on the use of pesticides, restricting treatments only to remove the target organism, selection of pest controls that minimize risks to human health, "beneficial non-target organisms" and the environment, partnering with other

agencies and organizations to "encourage" the use of IPM and adopt and "verifiably implement" policies, procedures and/or ordinances requiring the minimization of pesticide use and encouraging the use of IPM techniques for public agency facilities and activities. Additionally, the City must commit and schedule to reduce the use of pesticides that cause impairments of surface waters by preparing and updating annually an inventory of pesticides, quantify pesticide use by staff and contractors and demonstrate implementation of IPM alternatives where feasible to reduce pesticide use.

(vii) Permit Part VI.D.9.h.(vii) requires permittees in areas not subject to a Trash TMDL, to install trash excluders, or equivalent devices, on or in catch basins or outfalls, except where such installation would cause flooding, unless lack of maintenance that causes the flooding. Permittees, including the City, may also employ alternative or enhanced BMPs that "provide substantially equivalent removal of trash." If alternative means are employed, the City must demonstrate that such BMPs "provide equivalent trash removal performance as excluders."

(viii) Permit Part VI.D.9.k.(ii) requires the City to train all employees and contractors "who use or have the potential to use pesticides or fertilizers" that address the potential for pesticide-related surface water toxicity, in the proper use, handling, and disposal of pesticides, least toxic methods of pest prevention and control, including IPM and the reduction of pesticide use.

I am informed and believed that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal

years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

h. Illicit Connection and Discharge Requirements:

(i) Permit Part VI.D.10.d.(iii) requires the City to "ensure that signage adjacent to open channels . . . include information regarding dumping prohibitions and public reporting of illicit discharges."

(ii) Permit Part VI.D.10.d.(iv) requires the City to develop and maintain written procedures that document how complaint calls are received, documented and tracked "to ensure that all complaints are adequately addressed." Such procedures must be "evaluated to determine whether changes or updates are needed to ensure that the procedures adequately document the methods employed by the Permittee."

(iii) Permit Part VI.D.10.d.(v) the City to maintain documentation of complaint calls and to record the location of the reported spill or illicit discharge and the action undertaken in response.

(iv) Permit Part VI.D.10.e.(i) requires, in pertinent part, that the City implement a "spill response plan" for all sewage and other spills that may discharge into its MS4.

(v) Permit Part VI.D.10.e.(i)(1) requires that the plan must identify agencies responsible for spill response and cleanup, phone numbers and e-mail addresses for contacts and shall further address coordination with spill response teams "throughout all appropriate departments, programs and agencies so that maximum water quality protection is provided."

(vi) Part VI.D.10.e.(i)(3-4) require the City to respond to spills for containment within four hours of become aware of the spill, or if on private property, within two hours of gaining

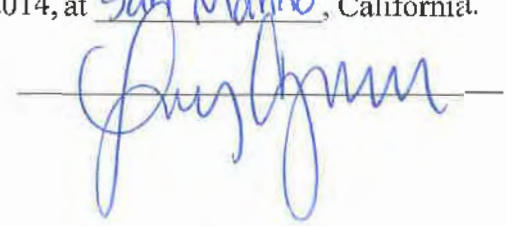
legal access to the property and reporting of spills that may endanger health or the environment to appropriate public health agencies and the Office of Emergency Services ("OES").

I am informed and believed that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 26 day of June, 2014, at San Marino, California.



DECLARATION OF KEN STRIPLIN

CITY OF SANTA CLARITA

I, Ken Striplin, hereby declare and state as follows:

1. I am City Manager for the City of Santa Clarita ("City"). In that capacity, I share responsibility for the compliance of the City with regard to the requirements of California Regional Water Quality Control Board, Los Angeles Region ("LARWQCB") Order No. R4-2012-0175 ("the Permit") as they apply to the City.

2. I have reviewed sections of the Permit and its attachments as set forth herein and am familiar with those provisions. I am also familiar with how the Permit changed requirements that were previously imposed on the City by the prior permit that had issued to the City by the LARWQCB in 2001 ("2001 Permit").

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

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

5. In Section 5 and Section 7 of this Test Claim, which contains exhibits to the test claim filed by the City and other permittees under the Permit, the specific sections of the Permit at issue in the test claim have been set forth. I hereby incorporate such provisions of Sections 5 and 7 into this declaration as though fully set forth herein.

6. The City has elected to participate in a Watershed Management Plan or Enhanced Watershed Management Plan ("WMP/EWMP") that will be designed to address, in whole or in

part, the "Total Maximum Daily Load ("TMDL")" provisions of the Permit as well other requirements of the Permit, including those set forth in this Declaration.

7. Based on my understanding of the Permit, I believe that the Permit requires the City to undertake the following programs either directly or through the mechanism of a WMP/EWMP, which represent new programs and/or higher levels of service or the shifting of state responsibilities to the City, which activities were not required by the 2001 Permit and which are unique to local government entities:

a. Implementation of TMDLs:

(i) Part VI.E.1.c. requires the permittees to "comply with the applicable water quality-based effluent limitations and/or receiving water limitations contained in Attachments L through R, consistent with the assumptions and requirements of the WLAs established in the TMDLs, including implementation plans and schedules, where provided for in the State adoption and approval of the TMDL (40 CFR 122.44(d)(1)(vii)(B); Cal. Wat. Code § 13263(a))."

(ii) Attachment K to the Permit sets forth the TMDLs with which the City must comply.

(iii) Attachments L through R of the Permit set forth the requirements of each TMDL and its "waste load allocations " with which the City must comply.

(iv) Part VI.B of the Permit requires the City "to comply with the [Monitoring and Reporting Program] and future revisions thereto, in Attachment E of this Order or may, in coordination with an approved Watershed Management Program per Part VI.C, implement a customized monitoring program that achieves the five Primary Objectives set forth in Part II.A of Attachment E and includes the elements set forth in Part II.E of Attachment E."

(v) Attachment E to the Permit requires the monitoring program to include monitoring at "TMDL receiving water compliance points" and other "TMDL monitoring requirements specified in approved TMDL Monitoring Plans." (Permit, Attachment E, Parts II.E.1 through 3 and Part V; *see also* Attachment E. Parts VI.A.1.b.(iii) and (iv), VI.B.2, VI.C.1.a, VI.D.1.a, VIII.B.1.b.(ii), IX.A.5, IX.C.1.a, IX.E.1.a and b, IX.G.1.b., and IX.G.2.)

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

b. <u>Requirements related to Discharge Prohibitions for Non-Stormwater</u>:

(i) Permit Part III.A.1 prohibits certain non-stormwater discharges through the municipal separate storm sewer system ("MS4") to receiving waters. I have been advised that this requirement exceeds the requirements of the Clean Water Act ("CWA").

(ii) Part III.A.2 requires the City to employ best management practices ("BMPs") for discharges from essential non-emergency firefighting activities and, with regard to unpermitted discharges by drinking water suppliers, to work with those suppliers on the conditions of their discharges.

(iii) Part III.A.4.a requires the City to develop and implement procedures covering non-permitted discharges of non-stormwater to the City's MS4 in compliance with the requirements of Part III.A.4.a.(i-vi) of the Permit.

(iv) Part III.A.4.b. requires the City to develop and implement procedures to minimize the discharge of landscape irrigation water into the MS4, including to coordinate with local water purveyors to promote water use efficiency, use of drought tolerant vegetation and use of less toxic options for pest control and landscape management and to develop and implement an outreach and education program to minimize the discharge of irrigation water and associated pollutants.

(v) Part III.A.4.c. requires the City to evaluate monitoring data collected pursuant to the Permit's Monitoring and Reporting Program (Permit Attachment E) and other associated data and information to determine, among other things, if authorized or conditionally authorized non-stormwater discharges are a source of pollutants that may be causing or contributing to an exceedance of receiving water limitations and/or water quality based effluent limitations.

(vi) Part III.A.4.d. requires the City to take action to address such non-stormwater discharges if they are found to be such a source of pollutants, through effective prohibition, conditions, diversions or treatment. These tasks involve, among other things, meeting with non-stormwater dischargers, identifying and analyzing the nature of non-stormwater discharges, the development and implementation of discharge procedures, conducting public education efforts and evaluating monitoring data.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

c. **Public Information Program Requirements**:

(i) Permit Part VI.D.5.a. requires the City to "measurably increase" the knowledge of target audiences about the MS4, the adverse impacts of stormwater pollution on receiving waters and potential solutions to mitigate impacts, to "measurably change" waste disposal and stormwater pollution generation behavior by developing and encouraging implementation of "appropriate alternatives" and to "involve and engage a diversity of socio-economic groups and ethnic communities" to participate in stormwater pollution impact mitigation.

(ii) Permit Part VI.D.5.b. the City to implement Public Information and Participation Program activities by participating in either a County-wide, Watershed Group-sponsored or individual effort.

(iii) Permit Part VI.D.5.c. requires the City to provide a means for public reporting of clogged catch basin inlets and illicit discharges/dumping, faded or missing catch basin labels and general stormwater and non-stormwater pollution prevention information through a telephone hotline or in public information or government pages of the telephone book, identify staff or departments serving as contact persons and providing current, updated hotline information. The City is also required to organize events targeted to residents and population subgroups to "educate and involve the community in storm water and non-storm water pollution prevent and clean-up (e.g., education seminars, clean-ups, and community catch basin stenciling)."

(iv) Permit Part VI.D.5.d. requires the City to conduct stormwater pollution prevention public service announcements and advertising campaigns and provide public education materials on the proper handling of vehicle waste fluids, house, and construction waste, pesticides and fertilizers (including the use of integrated pest management practices), green waste and animal

wastes. This Part further requires the City (a) to distribute public education materials at automotive parts stores, home improvement centers, lumber yards and hardware and paint stores, landscaping and gardening centers and pet shops and feed stores, and (b) to maintain stormwater websites or provide links to stormwater websites via the City's website, which must include educational material and opportunities for public participation in stormwater pollution and cleanup activities and provide schools within the City's jurisdiction with materials to education K-12 students on stormwater pollution. In each of these requirements, Permit Part VID.5.d. requires the City to "use effective strategies to educate and involve ethnic communities in storm water pollution prevention through culturally effective methods."

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

d. <u>Inventory and Inspections of Industrial/Commercial Sources</u>:

(i) Permit Part VI.D.6.b. requires the City to track nurseries and nursery centers and to include various information for each facility on the inventory, including the industrial classification code, the status of exposure of materials to stormwater, the name of the receiving water, whether the facility is tributary to a waterbody listed as impaired under CWA section 303(d) where the facility generates pollutants for which the waterbody is impaired, and whether the facility has filed a "No Exposure Certification" ("NEC") with the State Water Resources

Control Board ("State Board"). The City is required to update the inventory at least annually, through collection of information through field activities over from other means.

(ii) Permit Part VI.D.6.d. requires the City to inspect restaurants, automotive service facilities, retail gasoline outlets and nurseries and nursery centers twice during the Permit term, including an inspection within two years after the Permit's effective date. In such inspection, the City is required, among other things, to evaluate whether the source is implementing effective source control BMPs for each corresponding activity and to require implementation of additional BMPs where stormwater from the facility discharged to the MS4 discharges to a Significant Ecological Area ("SEA"), a water body subject to TMDL provisions or a CWA section 303(d) listed waterbody.

(iii) Permit Part VI.D.6.e. requires the City to inspect industrial facilities, including those identified in 40 C.F.R. section 122.26(b)(14)(i-xi) and facilities identified in 40 C.F.R. section 122.26(d)(12)(iv)(C). In such inspections, the City is required to confirm that each facility has a current Waste Discharge Identification number for coverage under the State Board-issued General Industrial Activities Stormwater Permit or has applied for and received a no exposure certification, and to require implementation of additional BMPs where stormwater from the MS4 discharges to a waterbody subject to a TMDL or is a CWA section 303(d) listed impaired waterbodies. Additionally, for facilities discharging to MS4s that discharge to an SEA, the permittees, including the City, are required to require operators to implement additional pollutant-specific controls to reduce pollutants that are causing or contributing to exceedances of water quality standards.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

e. **Post-Construction BMP Requirements**:

(i) Permit Part VI.D.7.d.(iv)(1)(a) requires the City to implement a GIS or other electronic system for tracking projects that are required to have post-construction BMPs, including project identification, acreage, BMP type and description, BMP locations, dates of acceptance and maintenance agreements, inspection dates and summaries and corrective action.

(ii) Permit Part VI.D.7.d.(iv)(1)(b) requires the City to inspect all development sites upon completion of construction and before issuance of an occupancy certificate to ensure "proper installation" of Low Impact Development ("LID") measures, structural BMPs, treatment control BMPs and hydromodification control BMPs.

(iii) Permit Part VI.D.7.d.(iv)(1)(c) requires the City to develop a post-construction BMP checklist and to inspect at an interval of at least once every two years, City-operated post-construction BMPs to assess operations condition.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

f. Construction Site Requirements:

(i) Permit Part VI.D.8.g.(i) requires the City to develop an electronic system to inventory grading, encroachment, demolition, building or construction permits (or other municipal authorizations to move soil and/or construct or destruct that involves land disturbance).

(ii) Permit Part VI.D.8.g.(ii) requires the City to complete and update an inventory containing, among other items, contact information for a project, basic site information, the proximity of all water bodies, significant threats to water quality status, current construction phase where feasible, required inspection frequency, start and anticipated completion dates, whether the project has submitted a Notice of Intent to be covered under the State Board-issued General Construction Activities Stormwater Permit ("GCASP"), whether it has obtained GCASP coverage, the date the Erosion and Sediment Control Plan ("ESCP") was approved and post-construction structural BMPs subject to operation and maintenance requirements.

(iii) Permit Part VI.D.8.h requires the City to develop and implement review procedures for construction plan documents, inkling preparation and submittal of an appropriate ESCP, verification of GCASP or other permit coverage and other items. The Part further requires permittees, including the City, to develop and implement a checklist to conduct and document the review of each ESCP.

(iv) Permit Part VI.D.8.i.(i) requires the City to develop and implement technical standards for the selection, installation and maintenance of construction BMPs for all such sites within the City.

(v) Permit Part VI.D.8.i.(ii) requires that such BMPs be tailored to the risks posed by the project, as well as in minimum conformance with standards set forth in Permit Table 15, use of

BMPs meeting the requirements of Permit Tables 14 and 16 for constructions sites equal or greater than one acre or paving projects, detailed installation designs and cut sheets for use in ESCPs and maintenance expectations for each BMP or category of BMPs.

(vi) Permit PartVI.D.8.i.(iv) further requires that such technical standards must be "readily available" to the development community and must be "clearly referenced" within the City's stormwater or development services website, ordinance, permit approval process and/or ESCP review forms.

(vii) Permit Part VI.D.8.i.(v) requires local BMP technical standards to cover all items set forth in Tables 13, 14, 15 and 16 of the Permit.

(viii) Permit Part VI.D.8.j requires the City to inspect all construction sites of one acre or greater in size on the frequencies set forth in the Permit, which requires inspections prior to land disturbance activities, during active construction and at the conclusion of the project and as a condition to approving and/or issuing a Certificate of Occupancy. The frequency of inspections is set in addition in Table 17 of the Permit. As part of the inspection obligations, the permittees, including the City, must develop, implement and revise as necessary standard operating procedures that identify the inspection procedures to be followed by each permittee. Additionally, during inspections, the City must verify "active coverage" under the GCASP for specified projects; review the ESCP; inspect the site to determine whether all BMPs have been selected, installed, implemented and maintained; assess the appropriateness of planned and installed BMPs, and their effectiveness; visually observe and record non-stormwater discharge, potential illicit discharges and connections and potential discharge of pollutants in stormwater runoff; develop a written or electronic inspection report generated from a field inspection

checklist; and track the number of inspections for the site to ensure that it meets the minimum requirements of Permit Table 17.

(ix) Permit Part VI.D.8.l.(i-ii) requires the City to ensure training for "all staff whose primary job duties are related to implementing the construction storm water program," including plan reviewers and permitting staff with regard to the "technical review of local erosion and sediment control ordinance, local BMP technical standards, ESCP requirements, and the key objectives of the State Water Board QSD program, erosion sediment control/storm water inspectors in inspection procedures consistent with various standards. Additionally, if outside parties conduct inspections or review plans, the City is required to ensure that such staff are trained under the same requirements.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

g. <u>Public Agency Requirements</u>:

(i) Permit Part VI.D.9.c. requires the City to maintain an "updated inventory" of all permittee-owned or operated facilities that are potential sources of stormwater pollution, including 24 separate categories of facilities that are required to be in the inventory. The inventory must include the name and address of the facility, contact information, a narrative description of activities performed and potential pollution sources, coverage under any individual or general NPDES permits or waivers. The inventory must be updated at least once during the

five-year term of the Permit with information collected through field activities or other means.

(ii) Permit Part VI.D.9.d.(i) requires the City to develop an inventory of "retrofitting opportunities" in areas of existing development.

(iii) Permit Part VI.D.9.d.(ii-iii) requires the City to screen existing areas of development "to identify candidate areas for retrofitting using watershed models or other screening level tools" and then evaluate and rank areas of existing development to prioritize retrofitting candidates.

(iv) Permit Part VI.D.9.d.(iv) requires the City to consider the results of the evaluation by giving "highly feasible" projects a "high priority" to implement source control and treatment control BMPs in the their Storm Water Management Plan ("SWMP") and consider high priority retrofit projects as candidates for off-site mitigation for new development and redevelopment projects.

(v) Permit Part VI.D.9.d.(v) requires the City to cooperate with private landowners to "encourage site specific retrofitting projects." In such cooperation, demonstration retrofit projects, retrofits on public lands and easements, education and outreach, subsidies for retrofit projects, requiring retrofit projects as enforcement, mitigation or ordinance compliance, public and private partnerships, fees for existing discharges to the MS4 and reduction of such fees for retrofit implementation must be considered.

(vi) Permit Part VI.D.9.g.(ii) requires the City to implement an Integrated Pest Management ("IPM") program, including restrictions on the use of pesticides, restricting treatments only to remove the target organism, selection of pest controls that minimize risks to human health, "beneficial non-target organisms" and the environment, partnering with other

agencies and organizations to "encourage" the use of IPM and adopt and "verifiably implement" policies, procedures and/or ordinances requiring the minimization of pesticide use and encouraging the use of IPM techniques for public agency facilities and activities. Additionally, the City must commit and schedule to reduce the use of pesticides that cause impairments of surface waters by preparing and updating annually an inventory of pesticides, quantify pesticide use by staff and contractors and demonstrate implementation of IPM alternatives where feasible to reduce pesticide use.

(vii) Permit Part VI.D.9.h.(vii) requires permittees in areas not subject to a Trash TMDL, to install trash excluders, or equivalent devices, on or in catch basins or outfalls, except where such installation would cause flooding, unless lack of maintenance that causes the flooding. Permittees, including the City, may also employ alternative or enhanced BMPs that "provide substantially equivalent removal of trash." If alternative means are employed, the City must demonstrate that such BMPs "provide equivalent trash removal performance as excluders."

(viii) Permit Part VI.D.9.k.(ii) requires the City to train all employees and contractors "who use or have the potential to use pesticides or fertilizers" that address the potential for pesticide-related surface water toxicity, in the proper use, handling, and disposal of pesticides, least toxic methods of pest prevention and control, including IPM and the reduction of pesticide use.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years

during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

h. Illicit Connection and Discharge Requirements:

(i) Permit Part VI.D.10.d.(iii) requires the City to "ensure that signage adjacent to open channels . . . include information regarding dumping prohibitions and public reporting of illicit discharges."

(ii) Permit Part VI.D.10.d.(iv) requires the City to develop and maintain written procedures that document how complaint calls are received, documented and tracked "to ensure that all complaints are adequately addressed." Such procedures must be "evaluated to determine whether changes or updates are needed to ensure that the procedures adequately document the methods employed by the Permittee."

(iii) Permit Part VI.D.10.d.(v) the City to maintain documentation of complaint calls and to record the location of the reported spill or illicit discharge and the action undertaken in response.

(iv) Permit Part VI.D.10.e.(i) requires, in pertinent part, that the City implement a "spill response plan" for all sewage and other spills that may discharge into its MS4.

(v) Permit Part VI.D.10.e.(i)(1) requires that the plan must identify agencies responsible for spill response and cleanup, phone numbers and e-mail addresses for contacts and shall further address coordination with spill response teams "throughout all appropriate departments, programs and agencies so that maximum water quality protection is provided."

(vi) Part VI.D.10.e.(i)(3-4) require the City to respond to spills for containment within four hours of become aware of the spill, or if on private property, within two hours of gaining

legal access to the property and reporting of spills that may endanger health or the environment to appropriate public health agencies and the Office of Emergency Services ("OES").

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

8. The City has a stormwater pollution prevention fee designed to cover costs for existing levels of minimum control measures, but would not be able to cover the full costs of the TMDLs or the other portions of the Permit. I am informed and believe that there are no dedicated state, federal or regional funds that are or will be available to pay for any of the new and/or upgraded programs and activities set forth in this Declaration.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 26th day of June, 2014, at SANTA CLARITA, California.

DECLARATION OF NOE NEGRETE

CITY OF SANTA FE SPRINGS

I, Noe Negrete, hereby declare and state as follows:

1. I am an employee of the City of Santa Fe Springs ("City"). In that capacity, I share responsibility for the compliance of the City with regard to the requirements of California Regional Water Quality Control Board, Los Angeles Region ("LARWQCB") Order No. R4-2012-0175 ("the Permit") as they apply to the City.

2. I have reviewed sections of the Permit and its attachments as set forth herein and am familiar with those provisions. I am also familiar with how the Permit changed requirements that were previously imposed on the City by the prior permit that had issued to the City by the LARWQCB in 2001 ("2001 Permit").

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

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

5. In Section 5 and Section 7 of this Test Claim, which contains exhibits to the test claim filed by the City and other permittees under the Permit, the specific sections of the Permit at issue in the test claim have been set forth. I hereby incorporate such provisions of Sections 5 and 7 into this declaration as though fully set forth herein.

6. The City has elected to participate in a Watershed Management Plan or Enhanced Watershed Management Plan ("WMP/EWMP") that will be designed to address, in whole or in

part, the "Total Maximum Daily Load (TMDL")" provisions of the Permit as well other requirements of the Permit, including those set forth in this Declaration.

7. Based on my understanding of the Permit, I believe that the Permit requires the City to undertake the following programs either directly or through the mechanism of a WMP/EWMP, which represent new programs and/or higher levels of service or the shifting of state responsibilities to the City, which activities were not required by the 2001 Permit and which are unique to local government entities:

a. <u>Implementation of TMDLs</u>:

(i) Part VI.E.1.c. requires the permittees to "comply with the applicable water quality-based effluent limitations and/or receiving water limitations contained in Attachments L through R, consistent with the assumptions and requirements of the WLAs established in the TMDLs, including implementation plans and schedules, where provided for in the State adoption and approval of the TMDL (40 CFR 122.44(d)(1)(vii)(B); Cal. Wat. Code § 13263(a))."

(ii) Attachment K to the Permit sets forth the TMDLs with which the City must comply.

(iii) Attachments L through R of the Permit set forth the requirements of each TMDL and its "waste load allocations " with which the City must comply.

(iv) Part VI.B of the Permit requires the City "to comply with the [Monitoring and Reporting Program] and future revisions thereto, in Attachment E of this Order or may, in coordination with an approved Watershed Management Program per Part VI.C, implement a customized monitoring program that achieves the five Primary Objectives set forth in Part II.A of Attachment E and includes the elements set forth in Part II.E of Attachment E."

(v) Attachment E to the Permit requires the monitoring program to include monitoring at "TMDL receiving water compliance points" and other "TMDL monitoring requirements specified in approved TMDL Monitoring Plans." (Permit, Attachment E, Parts II.E.1 through 3 and Part V; *see also* Attachment E. Parts VI.A.1.b.(iii) and (iv), VI.B.2, VI.C.1.a, VI.D.1.a, VIII.B.1.b.(ii), IX.A.5, IX.C.1.a, IX.E.1.a and b, IX.G.1.b., and IX.G.2.)

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

b. Requirements related to Discharge Prohibitions for Non-Stormwater:

(i) Permit Part III.A.1 prohibits certain non-stormwater discharges through the municipal separate storm sewer system ("MS4") to receiving waters. I have been advised that this requirement exceeds the requirements of the Clean Water Act ("CWA").

(ii) Part III.A.2 requires the City to employ best management practices ("BMPs") for discharges from essential non-emergency firefighting activities and, with regard to unpermitted discharges by drinking water suppliers, to work with those suppliers on the conditions of their discharges.

(iii) Part III.A.4.a requires the City to develop and implement procedures covering non-permitted discharges of non-stormwater to the City's MS4 in compliance with the requirements of Part III.A.4.a.(i-vi) of the Permit.

(iv) Part III.A.4.b. requires the City to develop and implement procedures to minimize the discharge of landscape irrigation water into the MS4, including to coordinate with local water purveyors to promote water use efficiency, use of drought tolerant vegetation and use of less toxic options for pest control and landscape management and to develop and implement an outreach and education program to minimize the discharge of irrigation water and associated pollutants.

(v) Part III.A.4.c. requires the City to evaluate monitoring data collected pursuant to the Permit's Monitoring and Reporting Program (Permit Attachment E) and other associated data and information to determine, among other things, if authorized or conditionally authorized non-stormwater discharges are a source of pollutants that may be causing or contributing to an exceedance of receiving water limitations and/or water quality based effluent limitations.

(vi) Part III.A.4.d. requires the City to take action to address such non-stormwater discharges if they are found to be such a source of pollutants, through effective prohibition, conditions, diversions or treatment. These tasks involve, among other things, meeting with non-stormwater dischargers, identifying and analyzing the nature of non-stormwater discharges, the development and implementation of discharge procedures, conducting public education efforts and evaluating monitoring data.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

c. Public Information Program Requirements:

(i) Permit Part VI.D.5.a. requires the City to "measurably increase" the knowledge of target audiences about the MS4, the adverse impacts of stormwater pollution on receiving waters and potential solutions to mitigate impacts, to "measurably change" waste disposal and stormwater pollution generation behavior by developing and encouraging implementation of "appropriate alternatives" and to "involve and engage a diversity of socio-economic groups and ethnic communities" to participate in stormwater pollution impact mitigation.

(ii) Permit Part VI.D.5.b. the City to implement Public Information and Participation Program activities by participating in either a County-wide, Watershed Group-sponsored or individual effort.

(iii) Permit Part VI.D.5.c. requires the City to provide a means for public reporting of clogged catch basin inlets and illicit discharges/dumping, faded or missing catch basin labels and general stormwater and non-stormwater pollution prevention information through a telephone hotline or in public information or government pages of the telephone book, identify staff or departments serving as contact persons and providing current, updated hotline information. The City is also required to organize events targeted to residents and population subgroups to "educate and involve the community in storm water and non-storm water pollution prevent and clean-up (e.g., education seminars, clean-ups, and community catch basin stenciling)."

(iv) Permit Part VI.D.5.d. requires the City to conduct stormwater pollution prevention public service announcements and advertising campaigns and provide public education materials on the proper handling of vehicle waste fluids, house, and construction waste, pesticides and fertilizers (including the use of integrated pest management practices), green waste and animal

wastes. This Part further requires the City (a) to distribute public education materials at automotive parts stores, home improvement centers, lumber yards and hardware and paint stores, landscaping and gardening centers and pet shops and feed stores, and (b) to maintain stormwater websites or provide links to stormwater websites via the City's website, which must include educational material and opportunities for public participation in stormwater pollution and cleanup activities and provide schools within the City's jurisdiction with materials to education K-12 students on stormwater pollution. In each of these requirements, Permit Part VID.5.d. requires the City to "use effective strategies to educate and involve ethnic communities in storm water pollution prevention through culturally effective methods."

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

d. <u>Inventory and Inspections of Industrial/Commercial Sources</u>:

(i) Permit Part VI.D.6.b. requires the City to track nurseries and nursery centers and to include various information for each facility on the inventory, including the industrial classification code, the status of exposure of materials to stormwater, the name of the receiving water, whether the facility is tributary to a waterbody listed as impaired under CWA section 303(d) where the facility generates pollutants for which the waterbody is impaired, and whether the facility has filed a "No Exposure Certification" ("NEC") with the State Water Resources

Control Board ("State Board"). The City is required to update the inventory at least annually, through collection of information through field activities over from other means.

(ii) Permit Part VI.D.6.d. requires the City to inspect restaurants, automotive service facilities, retail gasoline outlets and nurseries and nursery centers twice during the Permit term, including an inspection within two years after the Permit's effective date. In such inspection, the City is required, among other things, to evaluate whether the source is implementing effective source control BMPs for each corresponding activity and to require implementation of additional BMPs where stormwater from the facility discharged to the MS4 discharges to a Significant Ecological Area ("SEA"), a water body subject to TMDL provisions or a CWA section 303(d) listed waterbody.

(iii) Permit Part VI.D.6.e. requires the City to inspect industrial facilities, including those identified in 40 C.F.R. section 122.26(b)(14)(i-xi) and facilities identified in 40 C.F.R. section 122.26(d)(12)(iv)(C). In such inspections, the City is required to confirm that each facility has a current Waste Discharge Identification number for coverage under the State Board-issued General Industrial Activities Stormwater Permit or has applied for and received a no exposure certification, and to require implementation of additional BMPs where stormwater from the MS4 discharges to a waterbody subject to a TMDL or is a CWA section 303(d) listed impaired waterbodies. Additionally, for facilities discharging to MS4s that discharge to an SEA, the permittees, including the City, are required to require operators to implement additional pollutant-specific controls to reduce pollutants that are causing or contributing to exceedances of water quality standards.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

e. Post-Construction BMP Requirements:

(i) Permit Part VI.D.7.d.(iv)(1)(a) requires the City to implement a GIS or other electronic system for tracking projects that are required to have post-construction BMPs, including project identification, acreage, BMP type and description, BMP locations, dates of acceptance and maintenance agreements, inspection dates and summaries and corrective action.

(ii) Permit Part VI.D.7.d.(iv)(1)(b) requires the City to inspect all development sites upon completion of construction and before issuance of an occupancy certificate to ensure "proper installation" of Low Impact Development ("LID") measures, structural BMPs, treatment control BMPs and hydromodification control BMPs.

(iii) Permit Part VI.D.7.d.(iv)(1)(c) requires the City to develop a post-construction BMP checklist and to inspect at an interval of at least once every two years, City-operated post-construction BMPs to assess operations condition.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

f. Construction Site Requirements:

(i) Permit Part VI.D.8.g.(i) requires the City to develop an electronic system to inventory grading, encroachment, demolition, building or construction permits (or other municipal authorizations to move soil and/or construct or destruct that involves land disturbance).

(ii) Permit Part VI.D.8.g.(ii) requires the City to complete and update an inventory containing, among other items, contact information for a project, basic site information, the proximity of all water bodies, significant threats to water quality status, current construction phase where feasible, required inspection frequency, start and anticipated completion dates, whether the project has submitted a Notice of Intent to be covered under the State Board-issued General Construction Activities Stormwater Permit ("GCASP"), whether it has obtained GCASP coverage, the date the Erosion and Sediment Control Plan ("ESCP") was approved and post-construction structural BMPs subject to operation and maintenance requirements.

(iii) Permit Part VI.D.8.h requires the City to develop and implement review procedures for construction plan documents, inkling preparation and submittal of an appropriate ESCP, verification of GCASP or other permit coverage and other items. The Part further requires permittees, including the City, to develop and implement a checklist to conduct and document the review of each ESCP.

(iv) Permit Part VI.D.8.i.(i) requires the City to develop and implement technical standards for the selection, installation and maintenance of construction BMPs for all such sites within the City.

(v) Permit Part VI.D.8.i.(ii) requires that such BMPs be tailored to the risks posed by the project, as well as in minimum conformance with standards set forth in Permit Table 15, use of

BMPs meeting the requirements of Permit Tables 14 and 16 for constructions sites equal or greater than one acre or paving projects, detailed installation designs and cut sheets for use in ESCPs and maintenance expectations for each BMP or category of BMPs.

(vi) Permit PartVI.D.8.i.(iv) further requires that such technical standards must be "readily available" to the development community and must be "clearly referenced" within the City's stormwater or development services website, ordinance, permit approval process and/or ESCP review forms.

(vii) Permit Part VI.D.8.i.(v) requires local BMP technical standards to cover all items set forth in Tables 13, 14, 15 and 16 of the Permit.

(viii) Permit Part VI.D.8.j requires the City to inspect all construction sites of one acre or greater in size on the frequencies set forth in the Permit, which requires inspections prior to land disturbance activities, during active construction and at the conclusion of the project and as a condition to approving and/or issuing a Certificate of Occupancy. The frequency of inspections is set in addition in Table 17 of the Permit. As part of the inspection obligations, the permittees, including the City, must develop, implement and revise as necessary standard operating procedures that identify the inspection procedures to be followed by each permittee. Additionally, during inspections, the City must verify "active coverage" under the GCASP for specified projects; review the ESCP; inspect the site to determine whether all BMPs have been selected, installed, implemented and maintained; assess the appropriateness of planned and installed BMPs, and their effectiveness; visually observe and record non-stormwater discharge, potential illicit discharges and connections and potential discharge of pollutants in stormwater runoff; develop a written or electronic inspection report generated from a field inspection

checklist; and track the number of inspections for the site to ensure that it meets the minimum requirements of Permit Table 17.

(ix) Permit Part VI.D.8.l.(i-ii) requires the City to ensure training for "all staff whose primary job duties are related to implementing the construction storm water program," including plan reviewers and permitting staff with regard to the "technical review of local erosion and sediment control ordinance, local BMP technical standards, ESCP requirements, and the key objectives of the State Water Board QSD program, erosion sediment control/storm water inspectors in inspection procedures consistent with various standards. Additionally, if outside parties conduct inspections or review plans, the City is required to ensure that such staff are trained under the same requirements.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

g. <u>Public Agency Requirements</u>:

(i) Permit Part VI.D.9.c. requires the City to maintain an "updated inventory" of all permittee-owned or operated facilities that are potential sources of stormwater pollution, including 24 separate categories of facilities that are required to be in the inventory. The inventory must include the name and address of the facility, contact information, a narrative description of activities performed and potential pollution sources, coverage under any individual or general NPDES permits or waivers. The inventory must be updated at least once during the

five-year term of the Permit with information collected through field activities or other means.

(ii) Permit Part VI.D.9.d.(i) requires the City to develop an inventory of "retrofitting opportunities" in areas of existing development.

(iii) Permit Part VI.D.9.d.(ii-iii) requires the City to screen existing areas of development "to identify candidate areas for retrofitting using watershed models or other screening level tools" and then evaluate and rank areas of existing development to prioritize retrofitting candidates.

(iv) Permit Part VI.D.9.d.(iv) requires the City to consider the results of the evaluation by giving "highly feasible" projects a "high priority" to implement source control and treatment control BMPs in the their Storm Water Management Plan ("SWMP") and consider high priority retrofit projects as candidates for off-site mitigation for new development and redevelopment projects.

(v) Permit Part VI.D.9.d.(v) requires the City to cooperate with private landowners to "encourage site specific retrofitting projects." In such cooperation, demonstration retrofit projects, retrofits on public lands and easements, education and outreach, subsidies for retrofit projects, requiring retrofit projects as enforcement, mitigation or ordinance compliance, public and private partnerships, fees for existing discharges to the MS4 and reduction of such fees for retrofit implementation must be considered.

(vi) Permit Part VI.D.9.g.(ii) requires the City to implement an Integrated Pest Management ("IPM") program, including restrictions on the use of pesticides, restricting treatments only to remove the target organism, selection of pest controls that minimize risks to human health, "beneficial non-target organisms" and the environment, partnering with other

agencies and organizations to "encourage" the use of IPM and adopt and "verifiably implement" policies, procedures and/or ordinances requiring the minimization of pesticide use and encouraging the use of IPM techniques for public agency facilities and activities. Additionally, the City must commit and schedule to reduce the use of pesticides that cause impairments of surface waters by preparing and updating annually an inventory of pesticides, quantify pesticide use by staff and contractors and demonstrate implementation of IPM alternatives where feasible to reduce pesticide use.

(vii) Permit Part VI.D.9.h.(vii) requires permittees in areas not subject to a Trash TMDL, to install trash excluders, or equivalent devices, on or in catch basins or outfalls, except where such installation would cause flooding, unless lack of maintenance that causes the flooding. Permittees, including the City, may also employ alternative or enhanced BMPs that "provide substantially equivalent removal of trash." If alternative means are employed, the City must demonstrate that such BMPs "provide equivalent trash removal performance as excluders."

(viii) Permit Part VI.D.9.k.(ii) requires the City to train all employees and contractors "who use or have the potential to use pesticides or fertilizers" that address the potential for pesticide-related surface water toxicity, in the proper use, handling, and disposal of pesticides, least toxic methods of pest prevention and control, including IPM and the reduction of pesticide use.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years

during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

h. Illicit Connection and Discharge Requirements:

(i) Permit Part VI.D.10.d.(iii) requires the City to "ensure that signage adjacent to open channels . . . include information regarding dumping prohibitions and public reporting of illicit discharges."

(ii) Permit Part VI.D.10.d.(iv) requires the City to develop and maintain written procedures that document how complaint calls are received, documented and tracked "to ensure that all complaints are adequately addressed." Such procedures must be "evaluated to determine whether changes or updates are needed to ensure that the procedures adequately document the methods employed by the Permittee."

(iii) Permit Part VI.D.10.d.(v) the City to maintain documentation of complaint calls and to record the location of the reported spill or illicit discharge and the action undertaken in response.

(iv) Permit Part VI.D.10.e.(i) requires, in pertinent part, that the City implement a "spill response plan" for all sewage and other spills that may discharge into its MS4.

(v) Permit Part VI.D.10.e.(i)(1) requires that the plan must identify agencies responsible for spill response and cleanup, phone numbers and e-mail addresses for contacts and shall further address coordination with spill response teams "throughout all appropriate departments, programs and agencies so that maximum water quality protection is provided."

(vi) Part VI.D.10.e.(i)(3-4) require the City to respond to spills for containment within four hours of become aware of the spill, or if on private property, within two hours of gaining

legal access to the property and reporting of spills that may endanger health or the environment to appropriate public health agencies and the Office of Emergency Services ("OES").

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 27 day of June, 2014, at SANTA FE SPRINGS, California.

NOE NEGRETE
DIRECTOR OF PUBLIC WORKS
CITY OF SANTA FE SPRINGS

DECLARATION OF STEVE MYRTER

CITY OF SIGNAL HILL

I, Steve Myrter, hereby declare and state as follows:

1. I am Director of Public Works for the City of Signal Hill ("City"). In that capacity, I share responsibility for the compliance of the City with regard to the requirements of California Regional Water Quality Control Board, Los Angeles Region ("LARWQCB") Order No. R4-2012-0175 ("the Permit") as they apply to the City.

2. I have reviewed sections of the Permit and its attachments as set forth herein and am familiar with those provisions. I am also familiar with how the Permit changed requirements that were previously imposed on the City by the prior permit that had issued to the City by the LARWQCB in 2001 ("2001 Permit").

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

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

5. In Section 5 and Section 7 of this Test Claim, which contains exhibits to the test claim filed by the City and other permittees under the Permit, the specific sections of the Permit at issue in the test claim have been set forth. I hereby incorporate such provisions of Sections 5 and 7 into this declaration as though fully set forth herein.

6. The City has elected to participate in a Watershed Management Plan or Enhanced Watershed Management Plan ("WMP/EWMP") that will be designed to address, in whole or in

part, the "Total Maximum Daily Load (TMDL")" provisions of the Permit as well other requirements of the Permit, including those set forth in this Declaration.

7. Based on my understanding of the Permit, I believe that the Permit requires the City to undertake the following programs either directly or through the mechanism of a WMP/EWMP, which represent new programs and/or higher levels of service or the shifting of state responsibilities to the City, which activities were not required by the 2001 Permit and which are unique to local government entities:

a. **Implementation of TMDLs**:

(i) Part VI.E.1.c. requires the permittees to "comply with the applicable water quality-based effluent limitations and/or receiving water limitations contained in Attachments L through R, consistent with the assumptions and requirements of the WLAs established in the TMDLs, including implementation plans and schedules, where provided for in the State adoption and approval of the TMDL (40 CFR 122.44(d)(1)(vii)(B); Cal. Wat. Code § 13263(a))."

(ii) Attachment K to the Permit sets forth the TMDLs with which the City must comply.

(iii) Attachments L through R of the Permit set forth the requirements of each TMDL and its "waste load allocations " with which the City must comply.

(iv) Part VI.B of the Permit requires the City "to comply with the [Monitoring and Reporting Program] and future revisions thereto, in Attachment E of this Order or may, in coordination with an approved Watershed Management Program per Part VI.C, implement a customized monitoring program that achieves the five Primary Objectives set forth in Part II.A of Attachment E and includes the elements set forth in Part II.E of Attachment E."

(v) Attachment E to the Permit requires the monitoring program to include monitoring at "TMDL receiving water compliance points" and other "TMDL monitoring requirements specified in approved TMDL Monitoring Plans." (Permit, Attachment E, Parts II.E.1 through 3 and Part V; *see also* Attachment E. Parts VI.A.1.b.(iii) and (iv), VI.B.2, VI.C.1.a, VI.D.1.a, VIII.B.1.b.(ii), IX.A.5, IX.C.1.a, IX.E.1.a and b, IX.G.1.b., and IX.G.2.)

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

b. Requirements related to Discharge Prohibitions for Non-Stormwater:

(i) Permit Part III.A.1 prohibits certain non-stormwater discharges through the municipal separate storm sewer system ("MS4") to receiving waters. I have been advised that this requirement exceeds the requirements of the Clean Water Act ("CWA").

(ii) Part III.A.2 requires the City to employ best management practices ("BMPs") for discharges from essential non-emergency firefighting activities and, with regard to unpermitted discharges by drinking water suppliers, to work with those suppliers on the conditions of their discharges.

(iii) Part III.A.4.a requires the City to develop and implement procedures covering non-permitted discharges of non-stormwater to the City's MS4 in compliance with the requirements of Part III.A.4.a.(i-vi) of the Permit.

(iv) Part III.A.4.b. requires the City to develop and implement procedures to minimize the discharge of landscape irrigation water into the MS4, including to coordinate with local water purveyors to promote water use efficiency, use of drought tolerant vegetation and use of less toxic options for pest control and landscape management and to develop and implement an outreach and education program to minimize the discharge of irrigation water and associated pollutants.

(v) Part III.A.4.c. requires the City to evaluate monitoring data collected pursuant to the Permit's Monitoring and Reporting Program (Permit Attachment E) and other associated data and information to determine, among other things, if authorized or conditionally authorized non-stormwater discharges are a source of pollutants that may be causing or contributing to an exceedance of receiving water limitations and/or water quality based effluent limitations.

(vi) Part III.A.4.d. requires the City to take action to address such non-stormwater discharges if they are found to be such a source of pollutants, through effective prohibition, conditions, diversions or treatment. These tasks involve, among other things, meeting with non-stormwater dischargers, identifying and analyzing the nature of non-stormwater discharges, the development and implementation of discharge procedures, conducting public education efforts and evaluating monitoring data.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

c. **Public Information Program Requirements**:

(i) Permit Part VI.D.5.a. requires the City to "measurably increase" the knowledge of target audiences about the MS4, the adverse impacts of stormwater pollution on receiving waters and potential solutions to mitigate impacts, to "measurably change" waste disposal and stormwater pollution generation behavior by developing and encouraging implementation of "appropriate alternatives" and to "involve and engage a diversity of socio-economic groups and ethnic communities" to participate in stormwater pollution impact mitigation.

(ii) Permit Part VI.D.5.b. the City to implement Public Information and Participation Program activities by participating in either a County-wide, Watershed Group-sponsored or individual effort.

(iii) Permit Part VI.D.5.c. requires the City to provide a means for public reporting of clogged catch basin inlets and illicit discharges/dumping, faded or missing catch basin labels and general stormwater and non-stormwater pollution prevention information through a telephone hotline or in public information or government pages of the telephone book, identify staff or departments serving as contact persons and providing current, updated hotline information. The City is also required to organize events targeted to residents and population subgroups to "educate and involve the community in storm water and non-storm water pollution prevent and clean-up (e.g., education seminars, clean-ups, and community catch basin stenciling)."

(iv) Permit Part VI.D.5.d. requires the City to conduct stormwater pollution prevention public service announcements and advertising campaigns and provide public education materials on the proper handling of vehicle waste fluids, house, and construction waste, pesticides and fertilizers (including the use of integrated pest management practices), green waste and animal

wastes. This Part further requires the City (a) to distribute public education materials at automotive parts stores, home improvement centers, lumber yards and hardware and paint stores, landscaping and gardening centers and pet shops and feed stores, and (b) to maintain stormwater websites or provide links to stormwater websites via the City's website, which must include educational material and opportunities for public participation in stormwater pollution and cleanup activities and provide schools within the City's jurisdiction with materials to education K-12 students on stormwater pollution. In each of these requirements, Permit Part VID.5.d. requires the City to "use effective strategies to educate and involve ethnic communities in storm water pollution prevention through culturally effective methods."

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

d. Inventory and Inspections of Industrial/Commercial Sources:

(i) Permit Part VI.D.6.b. requires the City to track nurseries and nursery centers and to include various information for each facility on the inventory, including the industrial classification code, the status of exposure of materials to stormwater, the name of the receiving water, whether the facility is tributary to a waterbody listed as impaired under CWA section 303(d) where the facility generates pollutants for which the waterbody is impaired, and whether the facility has filed a "No Exposure Certification" ("NEC") with the State Water Resources

Control Board ("State Board"). The City is required to update the inventory at least annually, through collection of information through field activities over from other means.

(ii) Permit Part VI.D.6.d. requires the City to inspect restaurants, automotive service facilities, retail gasoline outlets and nurseries and nursery centers twice during the Permit term, including an inspection within two years after the Permit's effective date. In such inspection, the City is required, among other things, to evaluate whether the source is implementing effective source control BMPs for each corresponding activity and to require implementation of additional BMPs where stormwater from the facility discharged to the MS4 discharges to a Significant Ecological Area ("SEA"), a water body subject to TMDL provisions or a CWA section 303(d) listed waterbody.

(iii) Permit Part VI.D.6.e. requires the City to inspect industrial facilities, including those identified in 40 C.F.R. section 122.26(b)(14)(i-xi) and facilities identified in 40 C.F.R. section 122.26(d)(12)(iv)(C). In such inspections, the City is required to confirm that each facility has a current Waste Discharge Identification number for coverage under the State Board-issued General Industrial Activities Stormwater Permit or has applied for and received a no exposure certification, and to require implementation of additional BMPs where stormwater from the MS4 discharges to a waterbody subject to a TMDL or is a CWA section 303(d) listed impaired waterbodies. Additionally, for facilities discharging to MS4s that discharge to an SEA, the permittees, including the City, are required to require operators to implement additional pollutant-specific controls to reduce pollutants that are causing or contributing to exceedances of water quality standards.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

e. **Post-Construction BMP Requirements**:

(i) Permit Part VI.D.7.d.(iv)(1)(a) requires the City to implement a GIS or other electronic system for tracking projects that are required to have post-construction BMPs, including project identification, acreage, BMP type and description, BMP locations, dates of acceptance and maintenance agreements, inspection dates and summaries and corrective action.

(ii) Permit Part VI.D.7.d.(iv)(1)(b) requires the City to inspect all development sites upon completion of construction and before issuance of an occupancy certificate to ensure "proper installation" of Low Impact Development ("LID") measures, structural BMPs, treatment control BMPs and hydromodification control BMPs.

(iii) Permit Part VI.D.7.d.(iv)(1)(c) requires the City to develop a post-construction BMP checklist and to inspect at an interval of at least once every two years, City-operated post-construction BMPs to assess operations condition.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

f. **Construction Site Requirements**:

(i) Permit Part VI.D.8.g.(i) requires the City to develop an electronic system to inventory grading, encroachment, demolition, building or construction permits (or other municipal authorizations to move soil and/or construct or destruct that involves land disturbance).

(ii) Permit Part VI.D.8.g.(ii) requires the City to complete and update an inventory containing, among other items, contact information for a project, basic site information, the proximity of all water bodies, significant threats to water quality status, current construction phase where feasible, required inspection frequency, start and anticipated completion dates, whether the project has submitted a Notice of Intent to be covered under the State Board-issued General Construction Activities Stormwater Permit ("GCASP"), whether it has obtained GCASP coverage, the date the Erosion and Sediment Control Plan ("ESCP") was approved and post-construction structural BMPs subject to operation and maintenance requirements.

(iii) Permit Part VI.D.8.h requires the City to develop and implement review procedures for construction plan documents, inkling preparation and submittal of an appropriate ESCP, verification of GCASP or other permit coverage and other items. The Part further requires permittees, including the City, to develop and implement a checklist to conduct and document the review of each ESCP.

(iv) Permit Part VI.D.8.i.(i) requires the City to develop and implement technical standards for the selection, installation and maintenance of construction BMPs for all such sites within the City.

(v) Permit Part VI.D.8.i.(ii) requires that such BMPs be tailored to the risks posed by the project, as well as in minimum conformance with standards set forth in Permit Table 15, use of

BMPs meeting the requirements of Permit Tables 14 and 16 for constructions sites equal or greater than one acre or paving projects, detailed installation designs and cut sheets for use in ESCPs and maintenance expectations for each BMP or category of BMPs.

(vi) Permit PartVI.D.8.i.(iv) further requires that such technical standards must be "readily available" to the development community and must be "clearly referenced" within the City's stormwater or development services website, ordinance, permit approval process and/or ESCP review forms.

(vii) Permit Part VI.D.8.i.(v) requires local BMP technical standards to cover all items set forth in Tables 13, 14, 15 and 16 of the Permit.

(viii) Permit Part VI.D.8.j requires the City to inspect all construction sites of one acre or greater in size on the frequencies set forth in the Permit, which requires inspections prior to land disturbance activities, during active construction and at the conclusion of the project and as a condition to approving and/or issuing a Certificate of Occupancy. The frequency of inspections is set in addition in Table 17 of the Permit. As part of the inspection obligations, the permittees, including the City, must develop, implement and revise as necessary standard operating procedures that identify the inspection procedures to be followed by each permittee. Additionally, during inspections, the City must verify "active coverage" under the GCASP for specified projects; review the ESCP; inspect the site to determine whether all BMPs have been selected, installed, implemented and maintained; assess the appropriateness of planned and installed BMPs, and their effectiveness; visually observe and record non-stormwater discharge, potential illicit discharges and connections and potential discharge of pollutants in stormwater runoff; develop a written or electronic inspection report generated from a field inspection

checklist; and track the number of inspections for the site to ensure that it meets the minimum requirements of Permit Table 17.

(ix) Permit Part VI.D.8.l.(i-ii) requires the City to ensure training for "all staff whose primary job duties are related to implementing the construction storm water program," including plan reviewers and permitting staff with regard to the "technical review of local erosion and sediment control ordinance, local BMP technical standards, ESCP requirements, and the key objectives of the State Water Board QSD program, erosion sediment control/storm water inspectors in inspection procedures consistent with various standards. Additionally, if outside parties conduct inspections or review plans, the City is required to ensure that such staff are trained under the same requirements.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

g. **Public Agency Requirements**:

(i) Permit Part VI.D.9.c. requires the City to maintain an "updated inventory" of all permittee-owned or operated facilities that are potential sources of stormwater pollution, including 24 separate categories of facilities that are required to be in the inventory. The inventory must include the name and address of the facility, contact information, a narrative description of activities performed and potential pollution sources, coverage under any individual or general NPDES permits or waivers. The inventory must be updated at least once during the

five-year term of the Permit with information collected through field activities or other means.

(ii) Permit Part VI.D.9.d.(i) requires the City to develop an inventory of "retrofitting opportunities" in areas of existing development.

(iii) Permit Part VI.D.9.d.(ii-iii) requires the City to screen existing areas of development "to identify candidate areas for retrofitting using watershed models or other screening level tools" and then evaluate and rank areas of existing development to prioritize retrofitting candidates.

(iv) Permit Part VI.D.9.d.(iv) requires the City to consider the results of the evaluation by giving "highly feasible" projects a "high priority" to implement source control and treatment control BMPs in the their Storm Water Management Plan ("SWMP") and consider high priority retrofit projects as candidates for off-site mitigation for new development and redevelopment projects.

(v) Permit Part VI.D.9.d.(v) requires the City to cooperate with private landowners to "encourage site specific retrofitting projects." In such cooperation, demonstration retrofit projects, retrofits on public lands and easements, education and outreach, subsidies for retrofit projects, requiring retrofit projects as enforcement, mitigation or ordinance compliance, public and private partnerships, fees for existing discharges to the MS4 and reduction of such fees for retrofit implementation must be considered.

(vi) Permit Part VI.D.9.g.(ii) requires the City to implement an Integrated Pest Management ("IPM") program, including restrictions on the use of pesticides, restricting treatments only to remove the target organism, selection of pest controls that minimize risks to human health, "beneficial non-target organisms" and the environment, partnering with other

agencies and organizations to "encourage" the use of IPM and adopt and "verifiably implement" policies, procedures and/or ordinances requiring the minimization of pesticide use and encouraging the use of IPM techniques for public agency facilities and activities. Additionally, the City must commit and schedule to reduce the use of pesticides that cause impairments of surface waters by preparing and updating annually an inventory of pesticides, quantify pesticide use by staff and contractors and demonstrate implementation of IPM alternatives where feasible to reduce pesticide use.

(vii) Permit Part VI.D.9.h.(vii) requires permittees in areas not subject to a Trash TMDL, to install trash excluders, or equivalent devices, on or in catch basins or outfalls, except where such installation would cause flooding, unless lack of maintenance that causes the flooding. Permittees, including the City, may also employ alternative or enhanced BMPs that "provide substantially equivalent removal of trash." If alternative means are employed, the City must demonstrate that such BMPs "provide equivalent trash removal performance as excluders."

(viii) Permit Part VI.D.9.k.(ii) requires the City to train all employees and contractors "who use or have the potential to use pesticides or fertilizers" that address the potential for pesticide-related surface water toxicity, in the proper use, handling, and disposal of pesticides, least toxic methods of pest prevention and control, including IPM and the reduction of pesticide use.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years

during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

h. Illicit Connection and Discharge Requirements:

(i) Permit Part VI.D.10.d.(iii) requires the City to "ensure that signage adjacent to open channels . . . include information regarding dumping prohibitions and public reporting of illicit discharges."

(ii) Permit Part VI.D.10.d.(iv) requires the City to develop and maintain written procedures that document how complaint calls are received, documented and tracked "to ensure that all complaints are adequately addressed." Such procedures must be "evaluated to determine whether changes or updates are needed to ensure that the procedures adequately document the methods employed by the Permittee."

(iii) Permit Part VI.D.10.d.(v) the City to maintain documentation of complaint calls and to record the location of the reported spill or illicit discharge and the action undertaken in response.

(iv) Permit Part VI.D.10.e.(i) requires, in pertinent part, that the City implement a "spill response plan" for all sewage and other spills that may discharge into its MS4.

(v) Permit Part VI.D.10.e.(i)(1) requires that the plan must identify agencies responsible for spill response and cleanup, phone numbers and e-mail addresses for contacts and shall further address coordination with spill response teams "throughout all appropriate departments, programs and agencies so that maximum water quality protection is provided."

(vi) Part VI.D.10.e.(i)(3-4) require the City to respond to spills for containment within four hours of become aware of the spill, or if on private property, within two hours of gaining

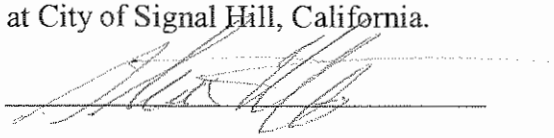
legal access to the property and reporting of spills that may endanger health or the environment to appropriate public health agencies and the Office of Emergency Services ("OES").

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 27th day of June, 2014, at City of Signal Hill, California.



DECLARATION OF ANTHONY R. YBARRA

CITY OF SOUTH EL MONTE

I, Anthony R. Ybarra, hereby declare and state as follows:

1. I am City Manager for the City of South El Monte ("City"). In that capacity, I share responsibility for the compliance of the City with regard to the requirements of California Regional Water Quality Control Board, Los Angeles Region ("LARWQCB") Order No. R4-2012-0175 ("the Permit") as they apply to the City.

2. I have reviewed sections of the Permit and its attachments as set forth herein and am familiar with those provisions. I am also familiar with how the Permit changed requirements that were previously imposed on the City by the prior permit that had issued to the City by the LARWQCB in 2001 ("2001 Permit").

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

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

5. In Section 5 and Section 7 of this Test Claim, which contains exhibits to the test claim filed by the City and other permittees under the Permit, the specific sections of the Permit at issue in the test claim have been set forth. I hereby incorporate such provisions of Sections 5 and 7 into this declaration as though fully set forth herein.

6. The City has elected to participate in a Watershed Management Plan or Enhanced Watershed Management Plan ("WMP/EWMP") that will be designed to address, in whole or in

part, the "Total Maximum Daily Load (TMDL")" provisions of the Permit as well other requirements of the Permit, including those set forth in this Declaration.

7. Based on my understanding of the Permit, I believe that the Permit requires the City to undertake the following programs either directly or through the mechanism of a WMP/EWMP, which represent new programs and/or higher levels of service or the shifting of state responsibilities to the City, which activities were not required by the 2001 Permit and which are unique to local government entities:

a. Implementation of TMDLs:

(i) Part VI.E.1.c. requires the permittees to "comply with the applicable water quality-based effluent limitations and/or receiving water limitations contained in Attachments L through R, consistent with the assumptions and requirements of the WLAs established in the TMDLs, including implementation plans and schedules, where provided for in the State adoption and approval of the TMDL (40 CFR 122.44(d)(1)(vii)(B); Cal. Wat. Code § 13263(a))."

(ii) Attachment K to the Permit sets forth the TMDLs with which the City must comply.

(iii) Attachments L through R of the Permit set forth the requirements of each TMDL and its "waste load allocations " with which the City must comply.

(iv) Part VI.B of the Permit requires the City "to comply with the [Monitoring and Reporting Program] and future revisions thereto, in Attachment E of this Order or may, in coordination with an approved Watershed Management Program per Part VI.C, implement a customized monitoring program that achieves the five Primary Objectives set forth in Part II.A of Attachment E and includes the elements set forth in Part II.E of Attachment E."

(v) Attachment E to the Permit requires the monitoring program to include monitoring at "TMDL receiving water compliance points" and other "TMDL monitoring requirements specified in approved TMDL Monitoring Plans." (Permit, Attachment E, Parts II.E.1 through 3 and Part V; *see also* Attachment E. Parts VI.A.1.b.(iii) and (iv), VI.B.2, VI.C.1.a, VI.D.1.a, VIII.B.1.b.(ii), IX.A.5, IX.C.1.a, IX.E.1.a and b, IX.G.1.b., and IX.G.2.)

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

b. Requirements related to Discharge Prohibitions for Non-Stormwater:

(i) Permit Part III.A.I prohibits certain non-stormwater discharges through the municipal separate storm sewer system ("MS4") to receiving waters. I have been advised that this requirement exceeds the requirements of the Clean Water Act ("CWA").

(ii) Part III.A.2 requires the City to employ best management practices ("BMPs") for discharges from essential non-emergency firefighting activities and, with regard to unpermitted discharges by drinking water suppliers, to work with those suppliers on the conditions of their discharges.

(iii) Part III.A.4.a requires the City to develop and implement procedures covering non-permitted discharges of non-stormwater to the City's MS4 in compliance with the requirements of Part III.A.4.a.(i-vi) of the Permit.

(iv) Part III.A.4.b. requires the City to develop and implement procedures to minimize the discharge of landscape irrigation water into the MS4, including to coordinate with local water purveyors to promote water use efficiency, use of drought tolerant vegetation and use of less toxic options for pest control and landscape management and to develop and implement an outreach and education program to minimize the discharge of irrigation water and associated pollutants.

(v) Part III.A.4.c. requires the City to evaluate monitoring data collected pursuant to the Permit's Monitoring and Reporting Program (Permit Attachment E) and other associated data and information to determine, among other things, if authorized or conditionally authorized non-stormwater discharges are a source of pollutants that may be causing or contributing to an exceedance of receiving water limitations and/or water quality based effluent limitations.

(vi) Part III.A.4.d. requires the City to take action to address such non-stormwater discharges if they are found to be such a source of pollutants, through effective prohibition, conditions, diversions or treatment. These tasks involve, among other things, meeting with non-stormwater dischargers, identifying and analyzing the nature of non-stormwater discharges, the development and implementation of discharge procedures, conducting public education efforts and evaluating monitoring data.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

c. **Public Information Program Requirements**:

(i) Permit Part VI.D.5.a. requires the City to "measurably increase" the knowledge of target audiences about the MS4, the adverse impacts of stormwater pollution on receiving waters and potential solutions to mitigate impacts, to "measurably change" waste disposal and stormwater pollution generation behavior by developing and encouraging implementation of "appropriate alternatives" and to "involve and engage a diversity of socio-economic groups and ethnic communities" to participate in stormwater pollution impact mitigation.

(ii) Permit Part VI.D.5.b. the City to implement Public Information and Participation Program activities by participating in either a County-wide, Watershed Group-sponsored or individual effort.

(iii) Permit Part VI.D.5.c. requires the City to provide a means for public reporting of clogged catch basin inlets and illicit discharges/dumping, faded or missing catch basin labels and general stormwater and non-stormwater pollution prevention information through a telephone hotline or in public information or government pages of the telephone book, identify staff or departments serving as contact persons and providing current, updated hotline information. The City is also required to organize events targeted to residents and population subgroups to "educate and involve the community in storm water and non-storm water pollution prevent and clean-up (e.g., education seminars, clean-ups, and community catch basin stenciling)."

(iv) Permit Part VI.D.5.d. requires the City to conduct stormwater pollution prevention public service announcements and advertising campaigns and provide public education materials on the proper handling of vehicle waste fluids, house, and construction waste, pesticides and fertilizers (including the use of integrated pest management practices), green waste and animal

wastes. This Part further requires the City (a) to distribute public education materials at automotive parts stores, home improvement centers, lumber yards and hardware and paint stores, landscaping and gardening centers and pet shops and feed stores, and (b) to maintain stormwater websites or provide links to stormwater websites via the City's website, which must include educational material and opportunities for public participation in stormwater pollution and cleanup activities and provide schools within the City's jurisdiction with materials to education K-12 students on stormwater pollution. In each of these requirements, Permit Part VID.5.d. requires the City to "use effective strategies to educate and involve ethnic communities in storm water pollution prevention through culturally effective methods."

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

d. <u>Inventory and Inspections of Industrial/Commercial Sources</u>:

(i) Permit Part VI.D.6.b. requires the City to track nurseries and nursery centers and to include various information for each facility on the inventory, including the industrial classification code, the status of exposure of materials to stormwater, the name of the receiving water, whether the facility is tributary to a waterbody listed as impaired under CWA section 303(d) where the facility generates pollutants for which the waterbody is impaired, and whether the facility has filed a "No Exposure Certification" ("NEC") with the State Water Resources

Control Board ("State Board"). The City is required to update the inventory at least annually, through collection of information through field activities over from other means.

(ii) Permit Part VI.D.6.d. requires the City to inspect restaurants, automotive service facilities, retail gasoline outlets and nurseries and nursery centers twice during the Permit term, including an inspection within two years after the Permit's effective date. In such inspection, the City is required, among other things, to evaluate whether the source is implementing effective source control BMPs for each corresponding activity and to require implementation of additional BMPs where stormwater from the facility discharged to the MS4 discharges to a Significant Ecological Area ("SEA"), a water body subject to TMDL provisions or a CWA section 303(d) listed waterbody.

(iii) Permit Part VI.D.6.e. requires the City to inspect industrial facilities, including those identified in 40 C.F.R. section 122.26(b)(14)(i-xi) and facilities identified in 40 C.F.R. section 122.26(d)(12)(iv)(C). In such inspections, the City is required to confirm that each facility has a current Waste Discharge Identification number for coverage under the State Board-issued General Industrial Activities Stormwater Permit or has applied for and received a no exposure certification, and to require implementation of additional BMPs where stormwater from the MS4 discharges to a waterbody subject to a TMDL or is a CWA section 303(d) listed impaired waterbodies. Additionally, for facilities discharging to MS4s that discharge to an SEA, the permittees, including the City, are required to require operators to implement additional pollutant-specific controls to reduce pollutants that are causing or contributing to exceedances of water quality standards.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

e. **Post-Construction BMP Requirements**:

(i) Permit Part VI.D.7.d.(iv)(1)(a) requires the City to implement a GIS or other electronic system for tracking projects that are required to have post-construction BMPs, including project identification, acreage, BMP type and description, BMP locations, dates of acceptance and maintenance agreements, inspection dates and summaries and corrective action.

(ii) Permit Part VI.D.7.d.(iv)(1)(b) requires the City to inspect all development sites upon completion of construction and before issuance of an occupancy certificate to ensure "proper installation" of Low Impact Development ("LID") measures, structural BMPs, treatment control BMPs and hydromodification control BMPs.

(iii) Permit Part VI.D.7.d.(iv)(1)(c) requires the City to develop a post-construction BMP checklist and to inspect at an interval of at least once every two years, City-operated post-construction BMPs to assess operations condition.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

f. Construction Site Requirements:

(i) Permit Part VI.D.8.g.(i) requires the City to develop an electronic system to inventory grading, encroachment, demolition, building or construction permits (or other municipal authorizations to move soil and/or construct or destruct that involves land disturbance).

(ii) Permit Part VI.D.8.g.(ii) requires the City to complete and update an inventory containing, among other items, contact information for a project, basic site information, the proximity of all water bodies, significant threats to water quality status, current construction phase where feasible, required inspection frequency, start and anticipated completion dates, whether the project has submitted a Notice of Intent to be covered under the State Board-issued General Construction Activities Stormwater Permit ("GCASP"), whether it has obtained GCASP coverage, the date the Erosion and Sediment Control Plan ("ESCP") was approved and post-construction structural BMPs subject to operation and maintenance requirements.

(iii) Permit Part VI.D.8.h requires the City to develop and implement review procedures for construction plan documents, inkling preparation and submittal of an appropriate ESCP, verification of GCASP or other permit coverage and other items. The Part further requires permittees, including the City, to develop and implement a checklist to conduct and document the review of each ESCP.

(iv) Permit Part VI.D.8.i.(i) requires the City to develop and implement technical standards for the selection, installation and maintenance of construction BMPs for all such sites within the City.

(v) Permit Part VI.D.8.i.(ii) requires that such BMPs be tailored to the risks posed by the project, as well as in minimum conformance with standards set forth in Permit Table 15, use of

BMPs meeting the requirements of Permit Tables 14 and 16 for constructions sites equal or greater than one acre or paving projects, detailed installation designs and cut sheets for use in ESCPs and maintenance expectations for each BMP or category of BMPs.

(vi) Permit PartVI.D.8.i.(iv) further requires that such technical standards must be "readily available" to the development community and must be "clearly referenced" within the City's stormwater or development services website, ordinance, permit approval process and/or ESCP review forms.

(vii) Permit Part VI.D.8.i.(v) requires local BMP technical standards to cover all items set forth in Tables 13, 14, 15 and 16 of the Permit.

(viii) Permit Part VI.D.8.j requires the City to inspect all construction sites of one acre or greater in size on the frequencies set forth in the Permit, which requires inspections prior to land disturbance activities, during active construction and at the conclusion of the project and as a condition to approving and/or issuing a Certificate of Occupancy. The frequency of inspections is set in addition in Table 17 of the Permit. As part of the inspection obligations, the permittees, including the City, must develop, implement and revise as necessary standard operating procedures that identify the inspection procedures to be followed by each permittee. Additionally, during inspections, the City must verify "active coverage" under the GCASP for specified projects; review the ESCP; inspect the site to determine whether all BMPs have been selected, installed, implemented and maintained; assess the appropriateness of planned and installed BMPs, and their effectiveness; visually observe and record non-stormwater discharge, potential illicit discharges and connections and potential discharge of pollutants in stormwater runoff; develop a written or electronic inspection report generated from a field inspection

checklist; and track the number of inspections for the site to ensure that it meets the minimum requirements of Permit Table 17.

(ix) Permit Part VI.D.8.l.(i-ii) requires the City to ensure training for "all staff whose primary job duties are related to implementing the construction storm water program," including plan reviewers and permitting staff with regard to the "technical review of local erosion and sediment control ordinance, local BMP technical standards, ESCP requirements, and the key objectives of the State Water Board QSD program, erosion sediment control/storm water inspectors in inspection procedures consistent with various standards. Additionally, if outside parties conduct inspections or review plans, the City is required to ensure that such staff are trained under the same requirements.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

g. <u>Public Agency Requirements</u>:

(i) Permit Part VI.D.9.c. requires the City to maintain an "updated inventory" of all permittee-owned or operated facilities that are potential sources of stormwater pollution, including 24 separate categories of facilities that are required to be in the inventory. The inventory must include the name and address of the facility, contact information, a narrative description of activities performed and potential pollution sources, coverage under any individual or general NPDES permits or waivers. The inventory must be updated at least once during the

five-year term of the Permit with information collected through field activities or other means.

(ii) Permit Part VI.D.9.d.(i) requires the City to develop an inventory of "retrofitting opportunities" in areas of existing development.

(iii) Permit Part VI.D.9.d.(ii-iii) requires the City to screen existing areas of development "to identify candidate areas for retrofitting using watershed models or other screening level tools" and then evaluate and rank areas of existing development to prioritize retrofitting candidates.

(iv) Permit Part VI.D.9.d.(iv) requires the City to consider the results of the evaluation by giving "highly feasible" projects a "high priority" to implement source control and treatment control BMPs in the their Storm Water Management Plan ("SWMP") and consider high priority retrofit projects as candidates for off-site mitigation for new development and redevelopment projects.

(v) Permit Part VI.D.9.d.(v) requires the City to cooperate with private landowners to "encourage site specific retrofitting projects." In such cooperation, demonstration retrofit projects, retrofits on public lands and easements, education and outreach, subsidies for retrofit projects, requiring retrofit projects as enforcement, mitigation or ordinance compliance, public and private partnerships, fees for existing discharges to the MS4 and reduction of such fees for retrofit implementation must be considered.

(vi) Permit Part VI.D.9.g.(ii) requires the City to implement an Integrated Pest Management ("IPM") program, including restrictions on the use of pesticides, restricting treatments only to remove the target organism, selection of pest controls that minimize risks to human health, "beneficial non-target organisms" and the environment, partnering with other

agencies and organizations to "encourage" the use of IPM and adopt and "verifiably implement" policies, procedures and/or ordinances requiring the minimization of pesticide use and encouraging the use of IPM techniques for public agency facilities and activities. Additionally, the City must commit and schedule to reduce the use of pesticides that cause impairments of surface waters by preparing and updating annually an inventory of pesticides, quantify pesticide use by staff and contractors and demonstrate implementation of IPM alternatives where feasible to reduce pesticide use.

(vii) Permit Part VI.D.9.h.(vii) requires permittees in areas not subject to a Trash TMDL, to install trash excluders, or equivalent devices, on or in catch basins or outfalls, except where such installation would cause flooding, unless lack of maintenance that causes the flooding. Permittees, including the City, may also employ alternative or enhanced BMPs that "provide substantially equivalent removal of trash." If alternative means are employed, the City must demonstrate that such BMPs "provide equivalent trash removal performance as excluders."

(viii) Permit Part VI.D.9.k.(ii) requires the City to train all employees and contractors "who use or have the potential to use pesticides or fertilizers" that address the potential for pesticide-related surface water toxicity, in the proper use, handling, and disposal of pesticides, least toxic methods of pest prevention and control, including IPM and the reduction of pesticide use.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years

during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

h. Illicit Connection and Discharge Requirements:

(i) Permit Part VI.D.10.d.(iii) requires the City to "ensure that signage adjacent to open channels . . . include information regarding dumping prohibitions and public reporting of illicit discharges."

(ii) Permit Part VI.D.10.d.(iv) requires the City to develop and maintain written procedures that document how complaint calls are received, documented and tracked "to ensure that all complaints are adequately addressed." Such procedures must be "evaluated to determine whether changes or updates are needed to ensure that the procedures adequately document the methods employed by the Permittee."

(iii) Permit Part VI.D.10.d.(v) the City to maintain documentation of complaint calls and to record the location of the reported spill or illicit discharge and the action undertaken in response.

(iv) Permit Part VI.D.10.e.(i) requires, in pertinent part, that the City implement a "spill response plan" for all sewage and other spills that may discharge into its MS4.

(v) Permit Part VI.D.10.e.(i)(1) requires that the plan must identify agencies responsible for spill response and cleanup, phone numbers and e-mail addresses for contacts and shall further address coordination with spill response teams "throughout all appropriate departments, programs and agencies so that maximum water quality protection is provided."

(vi) Part VI.D.10.e.(i)(3-4) require the City to respond to spills for containment within four hours of become aware of the spill, or if on private property, within two hours of gaining

legal access to the property and reporting of spills that may endanger health or the environment to appropriate public health agencies and the Office of Emergency Services ("OES").

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 26 day of June, 2014, at South El Monte, California.

Anthony R. Ybarra

DECLARATION OF SAMUEL K. WILSON

CITY OF VERNON

I, Samuel K. Wilson, hereby declare and state as follows:

1. I am an employee of the City of Vernon ("City") in the Public Works, Water & Development Services Department. In that capacity, I share responsibility for the compliance of the City with regard to the requirements of California Regional Water Quality Control Board, Los Angeles Region ("LARWQCB") Order No. R4-2012-0175 ("the Permit") as they apply to the City.

2. I have reviewed sections of the Permit and its attachments as set forth herein and am familiar with those provisions. I am also familiar with how the Permit changed requirements that were previously imposed on the City by the prior permit that had issued to the City by the LARWQCB in 2001 ("2001 Permit").

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

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

5. In Section 5 and Section 7 of this Test Claim, which contains exhibits to the test claim filed by the City and other permittees under the Permit, the specific sections of the Permit at issue in the test claim have been set forth. I hereby incorporate such provisions of Sections 5 and 7 into this declaration as though fully set forth herein.

6. The City has elected to participate in a Watershed Management Plan ("WMP") that will be designed to address, in whole or in part, the "Total Maximum Daily Load (TMDL")"

provisions of the Permit as well other requirements of the Permit, including those set forth in this Declaration.

7. Based on my understanding of the Permit, I believe that the Permit requires the City to undertake the following programs either directly or through the mechanism of a WMP, which represents new programs and/or higher levels of service or the shifting of state responsibilities to the City, which activities were not required by the 2001 Permit and which are unique to local government entities:

a. Implementation of TMDLs:

(i) Part VI.E.1.c. requires the permittees to "comply with the applicable water quality-based effluent limitations and/or receiving water limitations contained in Attachments L through R, consistent with the assumptions and requirements of the WLAs established in the TMDLs, including implementation plans and schedules, where provided for in the State adoption and approval of the TMDL (40 CFR 122.44(d)(1)(vii)(B); Cal. Wat. Code § 13263(a))."

(ii) Attachment K to the Permit sets forth the TMDLs with which the City must comply.

(iii) Attachments L through R of the Permit set forth the requirements of each TMDL and its "waste load allocations " with which the City must comply.

(iv) Part VI.B of the Permit requires the City "to comply with the [Monitoring and Reporting Program] and future revisions thereto, in Attachment E of this Order or may, in coordination with an approved Watershed Management Program per Part VI.C, implement a customized monitoring program that achieves the five Primary Objectives set forth in Part II.A of Attachment E and includes the elements set forth in Part II.E of Attachment E."

(v) Attachment E to the Permit requires the monitoring program to include monitoring at "TMDL receiving water compliance points" and other "TMDL monitoring requirements specified in approved TMDL Monitoring Plans." (Permit, Attachment E, Parts II.E.1 through 3 and Part V; *see also* Attachment E. Parts VI.A.1.b.(iii) and (iv), VI.B.2, VI.C.1.a, VI.D.1.a, VIII.B.1.b.(ii), IX.A.5, IX.C.1.a, IX.E.1.a and b, IX.G.1.b., and IX.G.2.)

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP.

b. <u>Requirements related to Discharge Prohibitions for Non-Stormwater</u>:

(i) Permit Part III.A.1 prohibits certain non-stormwater discharges through the municipal separate storm sewer system ("MS4") to receiving waters. I have been advised that this requirement exceeds the requirements of the Clean Water Act ("CWA").

(ii) Part III.A.2 requires the City to employ best management practices ("BMPs") for discharges from essential non-emergency firefighting activities and, with regard to unpermitted discharges by drinking water suppliers, to work with those suppliers on the conditions of their discharges.

(iii) Part III.A.4.a requires the City to develop and implement procedures covering non-permitted discharges of non-stormwater to the City's MS4 in compliance with the requirements of Part III.A.4.a.(i-vi) of the Permit.

(iv) Part III.A.4.b. requires the City to develop and implement procedures to minimize the discharge of landscape irrigation water into the MS4, including to coordinate with local water purveyors to promote water use efficiency, use of drought tolerant vegetation and use of less toxic options for pest control and landscape management and to develop and implement an outreach and education program to minimize the discharge of irrigation water and associated pollutants.

(v) Part III.A.4.c. requires the City to evaluate monitoring data collected pursuant to the Permit's Monitoring and Reporting Program (Permit Attachment E) and other associated data and information to determine, among other things, if authorized or conditionally authorized non-stormwater discharges are a source of pollutants that may be causing or contributing to an exceedance of receiving water limitations and/or water quality based effluent limitations.

(vi) Part III.A.4.d. requires the City to take action to address such non-stormwater discharges if they are found to be such a source of pollutants, through effective prohibition, conditions, diversions or treatment. These tasks involve, among other things, meeting with non-stormwater dischargers, identifying and analyzing the nature of non-stormwater discharges, the development and implementation of discharge procedures, conducting public education efforts and evaluating monitoring data.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP.

c. Public Information Program Requirements:

(i) Permit Part VI.D.5.a. requires the City to "measurably increase" the knowledge of target audiences about the MS4, the adverse impacts of stormwater pollution on receiving waters and potential solutions to mitigate impacts, to "measurably change" waste disposal and stormwater pollution generation behavior by developing and encouraging implementation of "appropriate alternatives" and to "involve and engage a diversity of socio-economic groups and ethnic communities" to participate in stormwater pollution impact mitigation.

(ii) Permit Part VI.D.5.b. the City to implement Public Information and Participation Program activities by participating in either a County-wide, Watershed Group-sponsored or individual effort.

(iii) Permit Part VI.D.5.c. requires the City to provide a means for public reporting of clogged catch basin inlets and illicit discharges/dumping, faded or missing catch basin labels and general stormwater and non-stormwater pollution prevention information through a telephone hotline or in public information or government pages of the telephone book, identify staff or departments serving as contact persons and providing current, updated hotline information. The City is also required to organize events targeted to residents and population subgroups to "educate and involve the community in storm water and non-storm water pollution prevent and clean-up (e.g., education seminars, clean-ups, and community catch basin stenciling)."

(iv) Permit Part VI.D.5.d. requires the City to conduct stormwater pollution prevention public service announcements and advertising campaigns and provide public education materials on the proper handling of vehicle waste fluids, house, and construction waste, pesticides and fertilizers (including the use of integrated pest management practices), green waste and animal

wastes. This Part further requires the City (a) to distribute public education materials at automotive parts stores, home improvement centers, lumber yards and hardware and paint stores, landscaping and gardening centers and pet shops and feed stores, and (b) to maintain stormwater websites or provide links to stormwater websites via the City's website, which must include educational material and opportunities for public participation in stormwater pollution and cleanup activities and provide schools within the City's jurisdiction with materials to education K-12 students on stormwater pollution. In each of these requirements, Permit Part VID.5.d. requires the City to "use effective strategies to educate and involve ethnic communities in storm water pollution prevention through culturally effective methods."

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP.

d. <u>Inventory and Inspections of Industrial/Commercial Sources</u>:

(i) Permit Part VI.D.6.b. requires the City to track nurseries and nursery centers and to include various information for each facility on the inventory, including the industrial classification code, the status of exposure of materials to stormwater, the name of the receiving water, whether the facility is tributary to a waterbody listed as impaired under CWA section 303(d) where the facility generates pollutants for which the waterbody is impaired, and whether the facility has filed a "No Exposure Certification" ("NEC") with the State Water Resources

Control Board ("State Board"). The City is required to update the inventory at least annually, through collection of information through field activities over from other means.

(ii) Permit Part VI.D.6.d. requires the City to inspect restaurants, automotive service facilities, retail gasoline outlets and nurseries and nursery centers twice during the Permit term, including an inspection within two years after the Permit's effective date. In such inspection, the City is required, among other things, to evaluate whether the source is implementing effective source control BMPs for each corresponding activity and to require implementation of additional BMPs where stormwater from the facility discharged to the MS4 discharges to a Significant Ecological Area ("SEA"), a water body subject to TMDL provisions or a CWA section 303(d) listed waterbody.

(iii) Permit Part VI.D.6.e. requires the City to inspect industrial facilities, including those identified in 40 C.F.R. section 122.26(b)(14)(i-xi) and facilities identified in 40 C.F.R. section 122.26(d)(12)(iv)(C). In such inspections, the City is required to confirm that each facility has a current Waste Discharge Identification number for coverage under the State Board-issued General Industrial Activities Stormwater Permit or has applied for and received a no exposure certification, and to require implementation of additional BMPs where stormwater from the MS4 discharges to a waterbody subject to a TMDL or is a CWA section 303(d) listed impaired waterbodies. Additionally, for facilities discharging to MS4s that discharge to an SEA, the permittees, including the City, are required to require operators to implement additional pollutant-specific controls to reduce pollutants that are causing or contributing to exceedances of water quality standards.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP.

e. Post-Construction BMP Requirements:

(i) Permit Part VI.D.7.d.(iv)(1)(a) requires the City to implement a GIS or other electronic system for tracking projects that are required to have post-construction BMPs, including project identification, acreage, BMP type and description, BMP locations, dates of acceptance and maintenance agreements, inspection dates and summaries and corrective action.

(ii) Permit Part VI.D.7.d.(iv)(1)(b) requires the City to inspect all development sites upon completion of construction and before issuance of an occupancy certificate to ensure "proper installation" of Low Impact Development ("LID") measures, structural BMPs, treatment control BMPs and hydromodification control BMPs.

(iii) Permit Part VI.D.7.d.(iv)(1)(c) requires the City to develop a post-construction BMP checklist and to inspect at an interval of at least once every two years, City-operated post-construction BMPs to assess operations condition.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP.

f. Construction Site Requirements:

(i) Permit Part VI.D.8.g.(i) requires the City to develop an electronic system to inventory grading, encroachment, demolition, building or construction permits (or other municipal authorizations to move soil and/or construct or destruct that involves land disturbance).

(ii) Permit Part VI.D.8.g.(ii) requires the City to complete and update an inventory containing, among other items, contact information for a project, basic site information, the proximity of all water bodies, significant threats to water quality status, current construction phase where feasible, required inspection frequency, start and anticipated completion dates, whether the project has submitted a Notice of Intent to be covered under the State Board-issued General Construction Activities Stormwater Permit ("GCASP"), whether it has obtained GCASP coverage, the date the Erosion and Sediment Control Plan ("ESCP") was approved and post-construction structural BMPs subject to operation and maintenance requirements.

(iii) Permit Part VI.D.8.h requires the City to develop and implement review procedures for construction plan documents, including preparation and submittal of an appropriate ESCP, verification of GCASP or other permit coverage and other items. The Part further requires permittees, including the City, to develop and implement a checklist to conduct and document the review of each ESCP.

(iv) Permit Part VI.D.8.i.(i) requires the City to develop and implement technical standards for the selection, installation and maintenance of construction BMPs for all such sites within the City.

(v) Permit Part VI.D.8.i.(ii) requires that such BMPs be tailored to the risks posed by the project, as well as in minimum conformance with standards set forth in Permit Table 15, use of

BMPs meeting the requirements of Permit Tables 14 and 16 for constructions sites equal or greater than one acre or paving projects, detailed installation designs and cut sheets for use in ESCPs and maintenance expectations for each BMP or category of BMPs.

(vi) Permit PartVI.D.8.i.(iv) further requires that such technical standards must be "readily available" to the development community and must be "clearly referenced" within the City's stormwater or development services website, ordinance, permit approval process and/or ESCP review forms.

(vii) Permit Part VI.D.8.i.(v) requires local BMP technical standards to cover all items set forth in Tables 13, 14, 15 and 16 of the Permit.

(viii) Permit Part VI.D.8.j requires the City to inspect all construction sites of one acre or greater in size on the frequencies set forth in the Permit, which requires inspections prior to land disturbance activities, during active construction and at the conclusion of the project and as a condition to approving and/or issuing a Certificate of Occupancy. The frequency of inspections is set in addition in Table 17 of the Permit. As part of the inspection obligations, the permittees, including the City, must develop, implement and revise as necessary standard operating procedures that identify the inspection procedures to be followed by each permittee. Additionally, during inspections, the City must verify "active coverage" under the GCASP for specified projects; review the ESCP; inspect the site to determine whether all BMPs have been selected, installed, implemented and maintained; assess the appropriateness of planned and installed BMPs, and their effectiveness; visually observe and record non-stormwater discharge, potential illicit discharges and connections and potential discharge of pollutants in stormwater runoff; develop a written or electronic inspection report generated from a field inspection

checklist; and track the number of inspections for the site to ensure that it meets the minimum requirements of Permit Table 17.

(ix) Permit Part VI.D.8.l.(i-ii) requires the City to ensure training for "all staff whose primary job duties are related to implementing the construction storm water program," including plan reviewers and permitting staff with regard to the "technical review of local erosion and sediment control ordinance, local BMP technical standards, ESCP requirements, and the key objectives of the State Water Board QSD program, erosion sediment control/storm water inspectors in inspection procedures consistent with various standards. Additionally, if outside parties conduct inspections or review plans, the City is required to ensure that such staff are trained under the same requirements.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP.

g. <u>Public Agency Requirements</u>:

(i) Permit Part VI.D.9.c. requires the City to maintain an "updated inventory" of all permittee-owned or operated facilities that are potential sources of stormwater pollution, including 24 separate categories of facilities that are required to be in the inventory. The inventory must include the name and address of the facility, contact information, a narrative description of activities performed and potential pollution sources, coverage under any individual or general NPDES permits or waivers. The inventory must be updated at least once during the

five-year term of the Permit with information collected through field activities or other means.

(ii) Permit Part VI.D.9.d.(i) requires the City to develop an inventory of "retrofitting opportunities" in areas of existing development.

(iii) Permit Part VI.D.9.d.(ii-iii) requires the City to screen existing areas of development "to identify candidate areas for retrofitting using watershed models or other screening level tools" and then evaluate and rank areas of existing development to prioritize retrofitting candidates.

(iv) Permit Part VI.D.9.d.(iv) requires the City to consider the results of the evaluation by giving "highly feasible" projects a "high priority" to implement source control and treatment control BMPs in the their Storm Water Management Plan ("SWMP") and consider high priority retrofit projects as candidates for off-site mitigation for new development and redevelopment projects.

(v) Permit Part VI.D.9.d.(v) requires the City to cooperate with private landowners to "encourage site specific retrofitting projects." In such cooperation, demonstration retrofit projects, retrofits on public lands and easements, education and outreach, subsidies for retrofit projects, requiring retrofit projects as enforcement, mitigation or ordinance compliance, public and private partnerships, fees for existing discharges to the MS4 and reduction of such fees for retrofit implementation must be considered.

(vi) Permit Part VI.D.9.g.(ii) requires the City to implement an Integrated Pest Management ("IPM") program, including restrictions on the use of pesticides, restricting treatments only to remove the target organism, selection of pest controls that minimize risks to human health, "beneficial non-target organisms" and the environment, partnering with other

agencies and organizations to "encourage" the use of IPM and adopt and "verifiably implement" policies, procedures and/or ordinances requiring the minimization of pesticide use and encouraging the use of IPM techniques for public agency facilities and activities. Additionally, the City must commit and schedule to reduce the use of pesticides that cause impairments of surface waters by preparing and updating annually an inventory of pesticides, quantify pesticide use by staff and contractors and demonstrate implementation of IPM alternatives where feasible to reduce pesticide use.

(vii) Permit Part VI.D.9.k.(ii) requires the City to train all employees and contractors "who use or have the potential to use pesticides or fertilizers" that address the potential for pesticide-related surface water toxicity, in the proper use, handling, and disposal of pesticides, least toxic methods of pest prevention and control, including IPM and the reduction of pesticide use.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP.

h. <u>Illicit Connection and Discharge Requirements</u>:

(i) Permit Part VI.D.10.d.(iii) requires the City to "ensure that signage adjacent to open channels . . . include information regarding dumping prohibitions and public reporting of illicit discharges."

(ii) Permit Part VI.D.10.d.(iv) requires the City to develop and maintain written procedures that document how complaint calls are received, documented and tracked "to ensure that all complaints are adequately addressed." Such procedures must be "evaluated to determine whether changes or updates are needed to ensure that the procedures adequately document the methods employed by the Permittee."

(iii) Permit Part VI.D.10.d.(v) the City to maintain documentation of complaint calls and to record the location of the reported spill or illicit discharge and the action undertaken in response.

(iv) Permit Part VI.D.10.e.(i) requires, in pertinent part, that the City implement a "spill response plan" for all sewage and other spills that may discharge into its MS4.

(v) Permit Part VI.D.10.e.(i)(1) requires that the plan must identify agencies responsible for spill response and cleanup, phone numbers and e-mail addresses for contacts and shall further address coordination with spill response teams "throughout all appropriate departments, programs and agencies so that maximum water quality protection is provided."

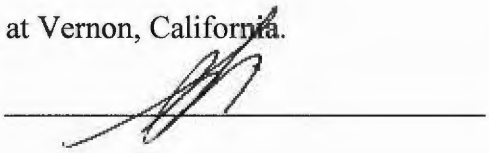
(vi) Part VI.D.10.e.(i)(3-4) require the City to respond to spills for containment within four hours of become aware of the spill, or if on private property, within two hours of gaining legal access to the property and reporting of spills that may endanger health or the environment to appropriate public health agencies and the Office of Emergency Services ("OES").

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the

discretion to impose under California law to recover any portion of the cost of these programs and activities.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 26th day of June, 2014, at Vernon, California.



DECLARATION OF RAY TAYLOR

CITY OF WESTLAKE VILLAGE

I, Ray Taylor, hereby declare and state as follows:

1. I am City Manager for the City of Westlake Village ("City"). In that capacity, I share responsibility for the compliance of the City with regard to the requirements of California Regional Water Quality Control Board, Los Angeles Region ("LARWQCB") Order No. R4-2012-0175 ("the Permit") as they apply to the City.

2. I have reviewed sections of the Permit and its attachments as set forth herein and am familiar with those provisions. I am also familiar with how the Permit changed requirements that were previously imposed on the City by the prior permit that had issued to the City by the LARWQCB in 2001 ("2001 Permit").

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

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

5. In Section 5 and Section 7 of this Test Claim, which contains exhibits to the test claim filed by the City and other permittees under the Permit, the specific sections of the Permit at issue in the test claim have been set forth. I hereby incorporate such provisions of Sections 5 and 7 into this declaration as though fully set forth herein.

6. The City has elected to participate in a Watershed Management Plan or Enhanced Watershed Management Plan ("WMP/EWMP") that will be designed to address, in whole or in

part, the "Total Maximum Daily Load (TMDL")" provisions of the Permit as well other requirements of the Permit, including those set forth in this Declaration.

7. Based on my understanding of the Permit, I believe that the Permit requires the City to undertake the following programs either directly or through the mechanism of a WMP/EWMP, which represent new programs and/or higher levels of service or the shifting of state responsibilities to the City, which activities were not required by the 2001 Permit and which are unique to local government entities:

a. Implementation of TMDLs:

(i) Part VI.E.1.c. requires the permittees to "comply with the applicable water quality-based effluent limitations and/or receiving water limitations contained in Attachments L through R, consistent with the assumptions and requirements of the WLAs established in the TMDLs, including implementation plans and schedules, where provided for in the State adoption and approval of the TMDL (40 CFR 122.44(d)(1)(vii)(B); Cal. Wat. Code § 13263(a))."

(ii) Attachment K to the Permit sets forth the TMDLs with which the City must comply.

(iii) Attachments L through R of the Permit set forth the requirements of each TMDL and its "waste load allocations " with which the City must comply.

(iv) Part VI.B of the Permit requires the City "to comply with the [Monitoring and Reporting Program] and future revisions thereto, in Attachment E of this Order or may, in coordination with an approved Watershed Management Program per Part VI.C, implement a customized monitoring program that achieves the five Primary Objectives set forth in Part II.A of Attachment E and includes the elements set forth in Part II.E of Attachment E."

(v) Attachment E to the Permit requires the monitoring program to include monitoring at "TMDL receiving water compliance points" and other "TMDL monitoring requirements

specified in approved TMDL Monitoring Plans." (Permit, Attachment E, Parts II.E.1 through 3 and Part V; *see also* Attachment E. Parts VI.A.1.b.(iii) and (iv), VI.B.2, VI.C.1.a, VI.D.1.a, VIII.B.1.b.(ii), IX.A.5, IX.C.1.a, IX.E.1.a and b, IX.G.1.b., and IX.G.2.)

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

b. Requirements related to Discharge Prohibitions for Non-Stormwater:

(i) Permit Part III.A.1 prohibits certain non-stormwater discharges through the municipal separate storm sewer system ("MS4") to receiving waters. I have been advised that this requirement exceeds the requirements of the Clean Water Act ("CWA").

(ii) Part III.A.2 requires the City to employ best management practices ("BMPs") for discharges from essential non-emergency firefighting activities and, with regard to unpermitted discharges by drinking water suppliers, to work with those suppliers on the conditions of their discharges.

(iii) Part III.A.4.a requires the City to develop and implement procedures covering non-permitted discharges of non-stormwater to the City's MS4 in compliance with the requirements of Part III.A.4.a.(i-vi) of the Permit.

(iv) Part III.A.4.b. requires the City to develop and implement procedures to minimize the discharge of landscape irrigation water into the MS4, including to coordinate with local water purveyors to promote water use efficiency, use of drought tolerant vegetation and use of less toxic options for pest control and landscape management and to develop and implement an

outreach and education program to minimize the discharge of irrigation water and associated pollutants.

(v) Part III.A.4.c. requires the City to evaluate monitoring data collected pursuant to the Permit's Monitoring and Reporting Program (Permit Attachment E) and other associated data and information to determine, among other things, if authorized or conditionally authorized non-stormwater discharges are a source of pollutants that may be causing or contributing to an exceedance of receiving water limitations and/or water quality based effluent limitations.

(vi) Part III.A.4.d. requires the City to take action to address such non-stormwater discharges if they are found to be such a source of pollutants, through effective prohibition, conditions, diversions or treatment. These tasks involve, among other things, meeting with non-stormwater dischargers, identifying and analyzing the nature of non-stormwater discharges, the development and implementation of discharge procedures, conducting public education efforts and evaluating monitoring data.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

c. Public Information Program Requirements:

(i) Permit Part VI.D.5.a. requires the City to "measurably increase" the knowledge of target audiences about the MS4, the adverse impacts of stormwater pollution on receiving waters and potential solutions to mitigate impacts, to "measurably change" waste disposal and stormwater pollution generation behavior by developing and encouraging implementation of

"appropriate alternatives" and to "involve and engage a diversity of socio-economic groups and ethnic communities" to participate in stormwater pollution impact mitigation.

(ii) Permit Part VI.D.5.b. the City to implement Public Information and Participation Program activities by participating in either a County-wide, Watershed Group-sponsored or individual effort.

(iii) Permit Part VI.D.5.c. requires the City to provide a means for public reporting of clogged catch basin inlets and illicit discharges/dumping, faded or missing catch basin labels and general stormwater and non-stormwater pollution prevention information through a telephone hotline or in public information or government pages of the telephone book, identify staff or departments serving as contact persons and providing current, updated hotline information. The City is also required to organize events targeted to residents and population subgroups to "educate and involve the community in storm water and non-storm water pollution prevent and clean-up (e.g., education seminars, clean-ups, and community catch basin stenciling)."

(iv) Permit Part VI.D.5.d. requires the City to conduct stormwater pollution prevention public service announcements and advertising campaigns and provide public education materials on the proper handling of vehicle waste fluids, house, and construction waste, pesticides and fertilizers (including the use of integrated pest management practices), green waste and animal wastes. This Part further requires the City (a) to distribute public education materials at automotive parts stores, home improvement centers, lumber yards and hardware and paint stores, landscaping and gardening centers and pet shops and feed stores, and (b) to maintain stormwater websites or provide links to stormwater websites via the City's website, which must include educational material and opportunities for public participation in stormwater pollution and cleanup activities and provide schools within the City's jurisdiction with materials to education

K-12 students on stormwater pollution. In each of these requirements, Permit Part VID.5.d. requires the City to "use effective strategies to educate and involve ethnic communities in storm water pollution prevention through culturally effective methods."

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

d. Inventory and Inspections of Industrial/Commercial Sources:

(i) Permit Part VI.D.6.b. requires the City to track nurseries and nursery centers and to include various information for each facility on the inventory, including the industrial classification code, the status of exposure of materials to stormwater, the name of the receiving water, whether the facility is tributary to a waterbody listed as impaired under CWA section 303(d) where the facility generates pollutants for which the waterbody is impaired, and whether the facility has filed a "No Exposure Certification" ("NEC") with the State Water Resources Control Board ("State Board"). The City is required to update the inventory at least annually, through collection of information through field activities over from other means.

(ii) Permit Part VI.D.6.d. requires the City to inspect restaurants, automotive service facilities, retail gasoline outlets and nurseries and nursery centers twice during the Permit term, including an inspection within two years after the Permit's effective date. In such inspection, the the City is required, among other things, to evaluate whether the source is implementing effective source control BMPs for each corresponding activity and to require implementation of additional BMPs where stormwater from the facility discharged to the MS4 discharges to a

Significant Ecological Area ("SEA"), a water body subject to TMDL provisions or a CWA section 303(d) listed waterbody.

(iii) Permit Part VI.D.6.e. requires the City to inspect industrial facilities, including those identified in 40 C.F.R. section 122.26(b)(14)(i-xi) and facilities identified in 40 C.F.R. section 122.26(d)(12)(iv)(C). In such inspections, the City is required to confirm that each facility has a current Waste Discharge Identification number for coverage under the State Board-issued General Industrial Activities Stormwater Permit or has applied for and received a no exposure certification, and to require implementation of additional BMPs where stormwater from the MS4 discharges to a waterbody subject to a TMDL or is a CWA section 303(d) listed impaired waterbodies. Additionally, for facilities discharging to MS4s that discharge to an SEA, the permittees, including the City, are required to require operators to implement additional pollutant-specific controls to reduce pollutants that are causing or contributing to exceedances of water quality standards.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

e. <u>Post-Construction BMP Requirements</u>:

(i) Permit Part VI.D.7.d.(iv)(1)(a) requires the City to implement a GIS or other electronic system for tracking projects that are required to have post-construction BMPs, including project identification, acreage, BMP type and description, BMP locations, dates of acceptance and maintenance agreements, inspection dates and summaries and corrective action.

(ii) Permit Part VI.D.7.d.(iv)(1)(b) requires the City to inspect all development sites upon completion of construction and before issuance of an occupancy certificate to ensure "proper installation" of Low Impact Development ("LID") measures, structural BMPs, treatment control BMPs and hydromodification control BMPs.

(iii) Permit Part VI.D.7.d.(iv)(1)(c) requires the City to develop a post-construction BMP checklist and to inspect at an interval of at least once every two years, City-operated post-construction BMPs to assess operations condition.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

f. **Construction Site Requirements**:

(i) Permit Part VI.D.8.g.(i) requires the City to develop an electronic system to inventory grading, encroachment, demolition, building or construction permits (or other municipal authorizations to move soil and/or construct or destruct that involves land disturbance).

(ii) Permit Part VI.D.8.g.(ii) requires the City to complete and update an inventory containing, among other items, contact information for a project, basic site information, the proximity of all water bodies, significant threats to water quality status, current construction phase where feasible, required inspection frequency, start and anticipated completion dates, whether the project has submitted a Notice of Intent to be covered under the State Board-issued General Construction Activities Stormwater Permit ("GCASP"), whether it has obtained GCASP

coverage, the date the Erosion and Sediment Control Plan ("ESCP") was approved and post-construction structural BMPs subject to operation and maintenance requirements.

(iii) Permit Part VI.D.8.h requires the City to develop and implement review procedures for construction plan documents, inkling preparation and submittal of an appropriate ESCP, verification of GCASP or other permit coverage and other items. The Part further requires permittees, including the City, to develop and implement a checklist to conduct and document the review of each ESCP.

(iv) Permit Part VI.D.8.i.(i) requires the City to develop and implement technical standards for the selection, installation and maintenance of construction BMPs for all such sites within the City.

(v) Permit Part VI.D.8.i.(ii) requires that such BMPs be tailored to the risks posed by the project, as well as in minimum conformance with standards set forth in Permit Table 15, use of BMPs meeting the requirements of Permit Tables 14 and 16 for constructions sites equal or greater than one acre or paving projects, detailed installation designs and cut sheets for use in ESCPs and maintenance expectations for each BMP or category of BMPs.

(vi) Permit PartVI.D.8.i.(iv) further requires that such technical standards must be "readily available" to the development community and must be "clearly referenced" within the City's stormwater or development services website, ordinance, permit approval process and/or ESCP review forms.

(vii) Permit Part VI.D.8.i.(v) requires local BMP technical standards to cover all items set forth in Tables 13, 14, 15 and 16 of the Permit.

(viii) Permit Part VI.D.8.j requires the City to inspect all construction sites of one acre or greater in size on the frequencies set forth in the Permit, which requires inspections prior to land

disturbance activities, during active construction and at the conclusion of the project and as a condition to approving and/or issuing a Certificate of Occupancy. The frequency of inspections is set in addition in Table 17 of the Permit. As part of the inspection obligations, the permittees, including the City, must develop, implement and revise as necessary standard operating procedures that identify the inspection procedures to be followed by each permittee. Additionally, during inspections, the City must verify "active coverage" under the GCASP for specified projects; review the ESCP; inspect the site to determine whether all BMPs have been selected, installed, implemented and maintained; assess the appropriateness of planned and installed BMPs, and their effectiveness; visually observe and record non-stormwater discharge, potential illicit discharges and connections and potential discharge of pollutants in stormwater runoff; develop a written or electronic inspection report generated from a field inspection checklist; and track the number of inspections for the site to ensure that it meets the minimum requirements of Permit Table 17.

(ix) Permit Part VI.D.8.l.(i-ii) requires the City to ensure training for "all staff whose primary job duties are related to implementing the construction storm water program," including plan reviewers and permitting staff with regard to the "technical review of local erosion and sediment control ordinance, local BMP technical standards, ESCP requirements, and the key objectives of the State Water Board QSD program, erosion sediment control/storm water inspectors in inspection procedures consistent with various standards. Additionally, if outside parties conduct inspections or review plans, the City is required to ensure that such staff are trained under the same requirements.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply

with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

g. Public Agency Requirements:

(i) Permit Part VI.D.9.c. requires the City to maintain an "updated inventory" of all permittee-owned or operated facilities that are potential sources of stormwater pollution, including 24 separate categories of facilities that are required to be in the inventory. The inventory must include the name and address of the facility, contact information, a narrative description of activities performed and potential pollution sources, coverage under any individual or general NPDES permits or waivers. The inventory must be updated at least once during the five-year term of the Permit with information collected through field activities or other means.

(ii) Permit Part VI.D.9.d.(i) requires the City to develop an inventory of "retrofitting opportunities" in areas of existing development.

(iii) Permit Part VI.D.9.d.(ii-iii) requires the City to screen existing areas of development "to identify candidate areas for retrofitting using watershed models or other screening level tools" and then evaluate and rank areas of existing development to prioritize retrofitting candidates.

(iv) Permit Part VI.D.9.d.(iv) requires the City to consider the results of the evaluation by giving "highly feasible" projects a "high priority" to implement source control and treatment control BMPs in the their Storm Water Management Plan ("SWMP") and consider high priority retrofit projects as candidates for off-site mitigation for new development and redevelopment projects.

(v) Permit Part VI.D.9.d.(v) requires the City to cooperate with private landowners to "encourage site specific retrofitting projects." In such cooperation, demonstration retrofit projects, retrofits on public lands and easements, education and outreach, subsidies for retrofit projects, requiring retrofit projects as enforcement, mitigation or ordinance compliance, public and private partnerships, fees for existing discharges to the MS4 and reduction of such fees for retrofit implementation must be considered.

(vi) Permit Part VI.D.9.g.(ii) requires the City to implement an Integrated Pest Management ("IPM") program, including restrictions on the use of pesticides, restricting treatments only to remove the target organism, selection of pest controls that minimize risks to human health, "beneficial non-target organisms" and the environment, partnering with other agencies and organizations to "encourage" the use of IPM and adopt and "verifiably implement" policies, procedures and/or ordinances requiring the minimization of pesticide use and encouraging the use of IPM techniques for public agency facilities and activities. Additionally, the City must commit and schedule to reduce the use of pesticides that cause impairments of surface waters by preparing and updating annually an inventory of pesticides, quantify pesticide use by staff and contractors and demonstrate implementation of IPM alternatives where feasible to reduce pesticide use.

(vii) Permit Part VI.D.9.h.(vii) requires permittees in areas not subject to a Trash TMDL, to install trash excluders, or equivalent devices, on or in catch basins or outfalls, except where such installation would cause flooding, unless lack of maintenance that causes the flooding. Permittees, including the City, may also employ alternative or enhanced BMPs that "provide substantially equivalent removal of trash." If alternative means are employed, the City must demonstrate that such BMPs "provide equivalent trash removal performance as excluders."

(viii) Permit Part VI.D.9.k.(ii) requires the City to train all employees and contractors "who use or have the potential to use pesticides or fertilizers" that address the potential for pesticide-related surface water toxicity, in the proper use, handling, and disposal of pesticides, least toxic methods of pest prevention and control, including IPM and the reduction of pesticide use.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

h. Illicit Connection and Discharge Requirements:

(i) Permit Part VI.D.10.d.(iii) requires the City to "ensure that signage adjacent to open channels . . . include information regarding dumping prohibitions and public reporting of illicit discharges."

(ii) Permit Part VI.D.10.d.(iv) requires the City to develop and maintain written procedures that document how complaint calls are received, documented and tracked "to ensure that all complaints are adequately addressed." Such procedures must be "evaluated to determine whether changes or updates are needed to ensure that the procedures adequately document the methods employed by the Permittee."

(iii) Permit Part VI.D.10.d.(v) the City to maintain documentation of complaint calls and to record the location of the reported spill or illicit discharge and the action undertaken in response.

(iv) Permit Part VI.D.10.e.(i) requires, in pertinent part, that the City implement a "spill response plan" for all sewage and other spills that may discharge into its MS4.

(v) Permit Part VI.D.10.e.(i)(1) requires that the plan must identify agencies responsible for spill response and cleanup, phone numbers and e-mail addresses for contacts and shall further address coordination with spill response teams "throughout all appropriate departments, programs and agencies so that maximum water quality protection is provided."

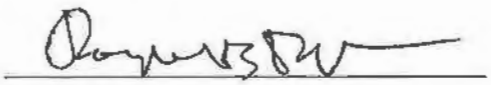
(vi) Part VI.D.10.e.(i)(3-4) require the City to respond to spills for containment within four hours of become aware of the spill, or if on private property, within two hours of gaining legal access to the property and reporting of spills that may endanger health or the environment to appropriate public health agencies and the Office of Emergency Services ("OES").

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 25th day of June, 2014, at Westlake Village, California.



DECLARATION OF JEFFREY W. COLLIER

CITY OF WHITTIER

I, Jeffrey W. Collier, hereby declare and state as follows:

1. I am City Manager for the City of Whittier ("City"). In that capacity, I share responsibility for the compliance of the City with regard to the requirements of California Regional Water Quality Control Board, Los Angeles Region ("LARWQCB") Order No. R4-2012-0175 ("the Permit") as they apply to the City.

2. I have reviewed sections of the Permit and its attachments as set forth herein and am familiar with those provisions. I am also familiar with how the Permit changed requirements that were previously imposed on the City by the prior permit that had issued to the City by the LARWQCB in 2001 ("2001 Permit").

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

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

5. In Section 5 and Section 7 of this Test Claim, which contains exhibits to the test claim filed by the City and other permittees under the Permit, the specific sections of the Permit at issue in the test claim have been set forth. I hereby incorporate such provisions of Sections 5 and 7 into this declaration as though fully set forth herein.

6. The City has elected to participate in a Watershed Management Plan or Enhanced Watershed Management Plan ("WMP/EWMP") that will be designed to address, in whole or in

part, the "Total Maximum Daily Load (TMDL")" provisions of the Permit as well other requirements of the Permit, including those set forth in this Declaration.

7. Based on my understanding of the Permit, I believe that the Permit requires the City to undertake the following programs either directly or through the mechanism of a WMP/EWMP, which represent new programs and/or higher levels of service or the shifting of state responsibilities to the City, which activities were not required by the 2001 Permit and which are unique to local government entities:

a. Implementation of TMDLs:

(i) Part VI.E.1.c. requires the permittees to "comply with the applicable water quality-based effluent limitations and/or receiving water limitations contained in Attachments L through R, consistent with the assumptions and requirements of the WLAs established in the TMDLs, including implementation plans and schedules, where provided for in the State adoption and approval of the TMDL (40 CFR 122.44(d)(1)(vii)(B); Cal. Wat. Code § 13263(a))."

(ii) Attachment K to the Permit sets forth the TMDLs with which the City must comply.

(iii) Attachments L through R of the Permit set forth the requirements of each TMDL and its "waste load allocations " with which the City must comply.

(iv) Part VI.B of the Permit requires the City "to comply with the [Monitoring and Reporting Program] and future revisions thereto, in Attachment E of this Order or may, in coordination with an approved Watershed Management Program per Part VI.C, implement a customized monitoring program that achieves the five Primary Objectives set forth in Part II.A of Attachment E and includes the elements set forth in Part II.E of Attachment E."

(v) Attachment E to the Permit requires the monitoring program to include monitoring at "TMDL receiving water compliance points" and other "TMDL monitoring requirements specified in approved TMDL Monitoring Plans." (Permit, Attachment E, Parts II.E.1 through 3 and Part V; *see also* Attachment E. Parts VI.A.1.b.(iii) and (iv), VI.B.2, VI.C.1.a, VI.D.1.a, VIII.B.1.b.(ii), IX.A.5, IX.C.1.a, IX.E.1.a and b, IX.G.1.b., and IX.G.2.)

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

b. <u>Requirements related to Discharge Prohibitions for Non-Stormwater</u>:

(i) Permit Part III.A.1 prohibits certain non-stormwater discharges through the municipal separate storm sewer system ("MS4") to receiving waters. I have been advised that this requirement exceeds the requirements of the Clean Water Act ("CWA").

(ii) Part III.A.2 requires the City to employ best management practices ("BMPs") for discharges from essential non-emergency firefighting activities and, with regard to unpermitted discharges by drinking water suppliers, to work with those suppliers on the conditions of their discharges.

(iii) Part III.A.4.a requires the City to develop and implement procedures covering non-permitted discharges of non-stormwater to the City's MS4 in compliance with the requirements of Part III.A.4.a.(i-vi) of the Permit.

(iv) Part III.A.4.b. requires the City to develop and implement procedures to minimize the discharge of landscape irrigation water into the MS4, including to coordinate with local water purveyors to promote water use efficiency, use of drought tolerant vegetation and use of less toxic options for pest control and landscape management and to develop and implement an outreach and education program to minimize the discharge of irrigation water and associated pollutants.

(v) Part III.A.4.c. requires the City to evaluate monitoring data collected pursuant to the Permit's Monitoring and Reporting Program (Permit Attachment E) and other associated data and information to determine, among other things, if authorized or conditionally authorized non-stormwater discharges are a source of pollutants that may be causing or contributing to an exceedance of receiving water limitations and/or water quality based effluent limitations.

(vi) Part III.A.4.d. requires the City to take action to address such non-stormwater discharges if they are found to be such a source of pollutants, through effective prohibition, conditions, diversions or treatment. These tasks involve, among other things, meeting with non-stormwater dischargers, identifying and analyzing the nature of non-stormwater discharges, the development and implementation of discharge procedures, conducting public education efforts and evaluating monitoring data.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

c. **Public Information Program Requirements**:

(i) Permit Part VI.D.5.a. requires the City to "measurably increase" the knowledge of target audiences about the MS4, the adverse impacts of stormwater pollution on receiving waters and potential solutions to mitigate impacts, to "measurably change" waste disposal and stormwater pollution generation behavior by developing and encouraging implementation of "appropriate alternatives" and to "involve and engage a diversity of socio-economic groups and ethnic communities" to participate in stormwater pollution impact mitigation.

(ii) Permit Part VI.D.5.b. the City to implement Public Information and Participation Program activities by participating in either a County-wide, Watershed Group-sponsored or individual effort.

(iii) Permit Part VI.D.5.c. requires the City to provide a means for public reporting of clogged catch basin inlets and illicit discharges/dumping, faded or missing catch basin labels and general stormwater and non-stormwater pollution prevention information through a telephone hotline or in public information or government pages of the telephone book, identify staff or departments serving as contact persons and providing current, updated hotline information. The City is also required to organize events targeted to residents and population subgroups to "educate and involve the community in storm water and non-storm water pollution prevent and clean-up (e.g., education seminars, clean-ups, and community catch basin stenciling)."

(iv) Permit Part VI.D.5.d. requires the City to conduct stormwater pollution prevention public service announcements and advertising campaigns and provide public education materials on the proper handling of vehicle waste fluids, house, and construction waste, pesticides and fertilizers (including the use of integrated pest management practices), green waste and animal

wastes. This Part further requires the City (a) to distribute public education materials at automotive parts stores, home improvement centers, lumber yards and hardware and paint stores, landscaping and gardening centers and pet shops and feed stores, and (b) to maintain stormwater websites or provide links to stormwater websites via the City's website, which must include educational material and opportunities for public participation in stormwater pollution and cleanup activities and provide schools within the City's jurisdiction with materials to education K-12 students on stormwater pollution. In each of these requirements, Permit Part VID.5.d. requires the City to "use effective strategies to educate and involve ethnic communities in storm water pollution prevention through culturally effective methods."

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

d. Inventory and Inspections of Industrial/Commercial Sources:

(i) Permit Part VI.D.6.b. requires the City to track nurseries and nursery centers and to include various information for each facility on the inventory, including the industrial classification code, the status of exposure of materials to stormwater, the name of the receiving water, whether the facility is tributary to a waterbody listed as impaired under CWA section 303(d) where the facility generates pollutants for which the waterbody is impaired, and whether the facility has filed a "No Exposure Certification" ("NEC") with the State Water Resources

Control Board ("State Board"). The City is required to update the inventory at least annually, through collection of information through field activities over from other means.

(ii) Permit Part VI.D.6.d. requires the City to inspect restaurants, automotive service facilities, retail gasoline outlets and nurseries and nursery centers twice during the Permit term, including an inspection within two years after the Permit's effective date. In such inspection, the City is required, among other things, to evaluate whether the source is implementing effective source control BMPs for each corresponding activity and to require implementation of additional BMPs where stormwater from the facility discharged to the MS4 discharges to a Significant Ecological Area ("SEA"), a water body subject to TMDL provisions or a CWA section 303(d) listed waterbody.

(iii) Permit Part VI.D.6.e. requires the City to inspect industrial facilities, including those identified in 40 C.F.R. section 122.26(b)(14)(i-xi) and facilities identified in 40 C.F.R. section 122.26(d)(12)(iv)(C). In such inspections, the City is required to confirm that each facility has a current Waste Discharge Identification number for coverage under the State Board-issued General Industrial Activities Stormwater Permit or has applied for and received a no exposure certification, and to require implementation of additional BMPs where stormwater from the MS4 discharges to a waterbody subject to a TMDL or is a CWA section 303(d) listed impaired waterbodies. Additionally, for facilities discharging to MS4s that discharge to an SEA, the permittees, including the City, are required to require operators to implement additional pollutant-specific controls to reduce pollutants that are causing or contributing to exceedances of water quality standards.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

e. **Post-Construction BMP Requirements**:

(i) Permit Part VI.D.7.d.(iv)(1)(a) requires the City to implement a GIS or other electronic system for tracking projects that are required to have post-construction BMPs, including project identification, acreage, BMP type and description, BMP locations, dates of acceptance and maintenance agreements, inspection dates and summaries and corrective action.

(ii) Permit Part VI.D.7.d.(iv)(1)(b) requires the City to inspect all development sites upon completion of construction and before issuance of an occupancy certificate to ensure "proper installation" of Low Impact Development ("LID") measures, structural BMPs, treatment control BMPs and hydromodification control BMPs.

(iii) Permit Part VI.D.7.d.(iv)(1)(c) requires the City to develop a post-construction BMP checklist and to inspect at an interval of at least once every two years, City-operated post-construction BMPs to assess operations condition.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

f. Construction Site Requirements:

(i) Permit Part VI.D.8.g.(i) requires the City to develop an electronic system to inventory grading, encroachment, demolition, building or construction permits (or other municipal authorizations to move soil and/or construct or destruct that involves land disturbance).

(ii) Permit Part VI.D.8.g.(ii) requires the City to complete and update an inventory containing, among other items, contact information for a project, basic site information, the proximity of all water bodies, significant threats to water quality status, current construction phase where feasible, required inspection frequency, start and anticipated completion dates, whether the project has submitted a Notice of Intent to be covered under the State Board-issued General Construction Activities Stormwater Permit ("GCASP"), whether it has obtained GCASP coverage, the date the Erosion and Sediment Control Plan ("ESCP") was approved and post-construction structural BMPs subject to operation and maintenance requirements.

(iii) Permit Part VI.D.8.h requires the City to develop and implement review procedures for construction plan documents, inkling preparation and submittal of an appropriate ESCP, verification of GCASP or other permit coverage and other items. The Part further requires permittees, including the City, to develop and implement a checklist to conduct and document the review of each ESCP.

(iv) Permit Part VI.D.8.i.(i) requires the City to develop and implement technical standards for the selection, installation and maintenance of construction BMPs for all such sites within the City.

(v) Permit Part VI.D.8.i.(ii) requires that such BMPs be tailored to the risks posed by the project, as well as in minimum conformance with standards set forth in Permit Table 15, use of

BMPs meeting the requirements of Permit Tables 14 and 16 for constructions sites equal or greater than one acre or paving projects, detailed installation designs and cut sheets for use in ESCPs and maintenance expectations for each BMP or category of BMPs.

(vi) Permit PartVI.D.8.i.(iv) further requires that such technical standards must be "readily available" to the development community and must be "clearly referenced" within the City's stormwater or development services website, ordinance, permit approval process and/or ESCP review forms.

(vii) Permit Part VI.D.8.i.(v) requires local BMP technical standards to cover all items set forth in Tables 13, 14, 15 and 16 of the Permit.

(viii) Permit Part VI.D.8.j requires the City to inspect all construction sites of one acre or greater in size on the frequencies set forth in the Permit, which requires inspections prior to land disturbance activities, during active construction and at the conclusion of the project and as a condition to approving and/or issuing a Certificate of Occupancy. The frequency of inspections is set in addition in Table 17 of the Permit. As part of the inspection obligations, the permittees, including the City, must develop, implement and revise as necessary standard operating procedures that identify the inspection procedures to be followed by each permittee. Additionally, during inspections, the City must verify "active coverage" under the GCASP for specified projects; review the ESCP; inspect the site to determine whether all BMPs have been selected, installed, implemented and maintained; assess the appropriateness of planned and installed BMPs, and their effectiveness; visually observe and record non-stormwater discharge, potential illicit discharges and connections and potential discharge of pollutants in stormwater runoff; develop a written or electronic inspection report generated from a field inspection

checklist; and track the number of inspections for the site to ensure that it meets the minimum requirements of Permit Table 17.

(ix) Permit Part VI.D.8.l.(i-ii) requires the City to ensure training for "all staff whose primary job duties are related to implementing the construction storm water program," including plan reviewers and permitting staff with regard to the "technical review of local erosion and sediment control ordinance, local BMP technical standards, ESCP requirements, and the key objectives of the State Water Board QSD program, erosion sediment control/storm water inspectors in inspection procedures consistent with various standards. Additionally, if outside parties conduct inspections or review plans, the City is required to ensure that such staff are trained under the same requirements.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

g. <u>Public Agency Requirements</u>:

(i) Permit Part VI.D.9.c. requires the City to maintain an "updated inventory" of all permittee-owned or operated facilities that are potential sources of stormwater pollution, including 24 separate categories of facilities that are required to be in the inventory. The inventory must include the name and address of the facility, contact information, a narrative description of activities performed and potential pollution sources, coverage under any individual or general NPDES permits or waivers. The inventory must be updated at least once during the

five-year term of the Permit with information collected through field activities or other means.

(ii) Permit Part VI.D.9.d.(i) requires the City to develop an inventory of "retrofitting opportunities" in areas of existing development.

(iii) Permit Part VI.D.9.d.(ii-iii) requires the City to screen existing areas of development "to identify candidate areas for retrofitting using watershed models or other screening level tools" and then evaluate and rank areas of existing development to prioritize retrofitting candidates.

(iv) Permit Part VI.D.9.d.(iv) requires the City to consider the results of the evaluation by giving "highly feasible" projects a "high priority" to implement source control and treatment control BMPs in the their Storm Water Management Plan ("SWMP") and consider high priority retrofit projects as candidates for off-site mitigation for new development and redevelopment projects.

(v) Permit Part VI.D.9.d.(v) requires the City to cooperate with private landowners to "encourage site specific retrofitting projects." In such cooperation, demonstration retrofit projects, retrofits on public lands and easements, education and outreach, subsidies for retrofit projects, requiring retrofit projects as enforcement, mitigation or ordinance compliance, public and private partnerships, fees for existing discharges to the MS4 and reduction of such fees for retrofit implementation must be considered.

(vi) Permit Part VI.D.9.g.(ii) requires the City to implement an Integrated Pest Management ("IPM") program, including restrictions on the use of pesticides, restricting treatments only to remove the target organism, selection of pest controls that minimize risks to human health, "beneficial non-target organisms" and the environment, partnering with other

agencies and organizations to "encourage" the use of IPM and adopt and "verifiably implement" policies, procedures and/or ordinances requiring the minimization of pesticide use and encouraging the use of IPM techniques for public agency facilities and activities. Additionally, the City must commit and schedule to reduce the use of pesticides that cause impairments of surface waters by preparing and updating annually an inventory of pesticides, quantify pesticide use by staff and contractors and demonstrate implementation of IPM alternatives where feasible to reduce pesticide use.

(vii) Permit Part VI.D.9.h.(vii) requires permittees in areas not subject to a Trash TMDL, to install trash excluders, or equivalent devices, on or in catch basins or outfalls, except where such installation would cause flooding, unless lack of maintenance that causes the flooding. Permittees, including the City, may also employ alternative or enhanced BMPs that "provide substantially equivalent removal of trash." If alternative means are employed, the City must demonstrate that such BMPs "provide equivalent trash removal performance as excluders."

(viii) Permit Part VI.D.9.k.(ii) requires the City to train all employees and contractors "who use or have the potential to use pesticides or fertilizers" that address the potential for pesticide-related surface water toxicity, in the proper use, handling, and disposal of pesticides, least toxic methods of pest prevention and control, including IPM and the reduction of pesticide use.

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years

during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

h. Illicit Connection and Discharge Requirements:

(i) Permit Part VI.D.10.d.(iii) requires the City to "ensure that signage adjacent to open channels . . . include information regarding dumping prohibitions and public reporting of illicit discharges."

(ii) Permit Part VI.D.10.d.(iv) requires the City to develop and maintain written procedures that document how complaint calls are received, documented and tracked "to ensure that all complaints are adequately addressed." Such procedures must be "evaluated to determine whether changes or updates are needed to ensure that the procedures adequately document the methods employed by the Permittee."

(iii) Permit Part VI.D.10.d.(v) the City to maintain documentation of complaint calls and to record the location of the reported spill or illicit discharge and the action undertaken in response.

(iv) Permit Part VI.D.10.e.(i) requires, in pertinent part, that the City implement a "spill response plan" for all sewage and other spills that may discharge into its MS4.

(v) Permit Part VI.D.10.e.(i)(1) requires that the plan must identify agencies responsible for spill response and cleanup, phone numbers and e-mail addresses for contacts and shall further address coordination with spill response teams "throughout all appropriate departments, programs and agencies so that maximum water quality protection is provided."

(vi) Part VI.D.10.e.(i)(3-4) require the City to respond to spills for containment within four hours of become aware of the spill, or if on private property, within two hours of gaining

legal access to the property and reporting of spills that may endanger health or the environment to appropriate public health agencies and the Office of Emergency Services ("OES").

I am informed and believe that the City has incurred in excess of $1,000 in costs in Fiscal Years 2012-2013 and 2013-2014, either directly or in developing a WMP/EWMP, to comply with these requirements, and will incur in excess of $1,000 in costs in succeeding fiscal years during the term of the Permit in complying with these requirements, either directly or through an approved WMP/EWMP.

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 25th day of June, 2014, at Whittier, California.

Jeffrey W. Collier
City Manager
City of Whittier

SECTION SEVEN

EXHIBITS

In Support of Joint Test Claim of the Los Angeles County Local Agencies Concerning Los Angeles RWQCB Order No. R4-2012-0175 (NPDES No. CAS 004001)

Exhibit A:

California Regional Water Quality Control Board, Los Angeles Region, Order No. R4-2012-0175 (CAS 004001), plus Attachments

Exhibit B:

California Regional Water Quality Control Board, Los Angeles Region, Order No. 01-182 (CAS 004001)

Exhibit C:

California statutes

Exhibit D:

Federal statutes and regulations

Exhibit E:

Federal and California cases

Exhibit F:

Excerpts of State Water Board General Construction and Industrial Permits

Excerpt of LARWQCB Resolution 2007-12

EXHIBIT A

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

LOS ANGELES REGION

320 W. 4th Street, Suite 200, Los Angeles, California 90013

Phone (213) 576 - 6600 • Fax (213) 576 - 6640

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

ORDER NO. R4-2012-0175
NPDES PERMIT NO. CAS004001

WASTE DISCHARGE REQUIREMENTS FOR MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) DISCHARGES WITHIN THE COASTAL WATERSHEDS OF LOS ANGELES COUNTY, EXCEPT THOSE DISCHARGES ORIGINATING FROM THE CITY OF LONG BEACH MS4

The municipal discharges of storm water and non-storm water by the Los Angeles County Flood Control District, the County of Los Angeles, and 84 incorporated cities within the coastal watersheds of Los Angeles County with the exception of the City of Long Beach (hereinafter referred to separately as Permittees and jointly as the Dischargers) from the discharge points identified below are subject to waste discharge requirements as set forth in this Order.

I. FACILITY INFORMATION

Table 1. Discharger Information

Dischargers	The Los Angeles County Flood Control District, the County of Los Angeles, and 84 incorporated cities within the coastal watersheds of Los Angeles County with the exception of the City of Long Beach (See Table 4)
Name of Facility	Municipal Separate Storm Sewer Systems (MS4s) within the coastal watersheds of Los Angeles County with the exception of the City of Long Beach MS4
Facility Address	Various (see Table 2)
The U.S. Environmental Protection Agency (USEPA) and the California Regional Water Quality Control Board, Los Angeles Region (Regional Water Board) have classified the Greater Los Angeles County MS4 as a large municipal separate storm sewer system (MS4) pursuant to 40 CFR section 122.26(b)(4) and a major facility pursuant to 40 CFR section 122.2.	

Table 2. Facility Information

Permittee (WDID)	**Contact Information**	
Agoura Hills (*4B190147001*)	**Mailing Address**	30001 Ladyface Court
		Agoura Hills, CA 91301
	Facility Contact, Title, and E-mail	Ken Berkman, City Engineer kberkman@agoura-hills.ca.us

Permittee (WDID)	Contact Information	
Alhambra (*4B190148001*)	**Mailing Address**	111 South First Street
		Alhambra, CA 91801-3796
	Facility Contact and E-mail	David Dolphin ddolphin@cityofalhambra.org
Arcadia (*4B190149001*)	**Mailing Address**	11800 Goldring Road
		Arcadia, CA 91006-5879
	Facility Contact, Title, Phone, and E-mail	Vanessa Hevener, Environmental Services Officer (626) 305-5327 vhevener@ci.arcadia.ca.us
Artesia (*4B190150001*)	**Mailing Address**	18747 Clarkdale Avenue
		Artesia, CA 90701-5899
	Facility Contact, Title, and E-mail	Maria Dadian, Director of Public Works mdadian@cityofartesia.ci.us
Azusa (*4B190151001*)	**Mailing Address**	213 East Foothill Boulevard
		Azusa, CA 91702
	Facility Contact, Title, and E-mail	Carl Hassel, City Engineer chassel@ci.azusa.ca.us
Baldwin Park (*4B190152001*)	**Mailing Address**	14403 East Pacific Avenue
		Baldwin Park, CA 91706-4297
	Facility Contact, Title, and E-mail	David Lopez, Associate Engineer dlopez@baldwinpark.com
Bell (*4B190153001*)	**Mailing Address**	6330 Pine Avenue
		Bell, CA 90201-1291
	Facility Contact, Title, and E-mail	Terri Rodrigue, City Engineer trodrigue@cityofbell.org
Bell Gardens (*4B190139002*)	**Mailing Address**	7100 South Garfield Avenue
		Bell Gardens, CA 90201-3293
	Facility Contact, Title, and Phone	John Oropeza, Director of Public Works (562) 806-7700
Bellflower (*4B190154001*)	**Mailing Address**	16600 Civic Center Drive
		Bellflower, CA 90706-5494
	Facility Contact, Title, and E-mail	Bernie Iniguez, Environmental Services Manager biniguez@bellflower.org
Beverly Hills (*4B190132002*)	**Mailing Address**	455 North Rexford Drive
		Beverly Hills, CA 90210
	Facility Contact, Title, and E-mail	Vincent Chee, Project Civil Engineer kgettler@beverlyhills.org
Bradbury (*4B190155001*)	**Mailing Address**	600 Winston Avenue
		Bradbury, CA 91010-1199
	Facility Contact, Title, and E-mail	Elroy Kiepke, City Engineer mkeith@cityofbradbury.org
Burbank (*4B190101002*)	**Mailing Address**	P.O. Box 6459
		Burbank, CA 91510
	Facility Contact, Title, and E-mail	Bonnie Teaford, Public Works Director bteaford@ci.burbank.ca.us
Calabasas (*4B190157001*)	**Mailing Address**	100 Civic Center Way
		Calabasas, CA 91302-3172
	Facility Contact, Title, and E-mail	Alex Farassati, ESM afarassati@cityofcalabasas.com
Carson (*4B190158001*)	**Mailing Address**	P.O. Box 6234
		Carson, CA 90745
	Facility Contact, Title,	Patricia Elkins, Building Construction Manager

Permittee (WDID)	Contact Information	
	and E-mail	pelkins@carson.ca.us
Cerritos (*4B190159001*)	**Mailing Address**	P.O. Box 3130
		Cerritos, CA 90703-3130
	Facility Contact, Title, and E-mail	Mike O'Grady, Environmental Services mo'grady@cerritos.us
Claremont (*4B190160001*)	**Mailing Address**	207 Harvard Avenue
		Claremont, CA 91711-4719
	Facility Contact, Title, and E-mail	Craig Bradshaw, City Engineer cbradshaw@ci.claremont.ca.us
Commerce (*4B190161001*)	**Mailing Address**	2535 Commerce Way
		Commerce, CA 90040-1487
	Facility Contact and E-mail	Gina Nila gnila@ci.commerce.ca.us
Compton (*4B190162001*)	**Mailing Address**	205 South Willowbrook Avenue
		Compton, CA 90220-3190
	Facility Contact, Title, and Phone	Hien Nguyen, Assistant City Engineer (310) 761-1476
Covina (*4B190163001*)	**Mailing Address**	125 East College Street
		Covina, CA 91723-2199
	Facility Contact, Title, and E-mail	Vivian Castro, Environmental Services Manager vcastro@covinaca.gov
Cudahy (*4B190164001*)	**Mailing Address**	P.O. Box 1007
		Cudahy, CA 90201-6097
	Facility Contact, Title, and E-mail	Hector Rodriguez, City Manager hrodriguez@cityofcudahy.ca.us
Culver City (*4B190165001*)	**Mailing Address**	9770 Culver Boulevard
		Culver City, CA 90232-0507
	Facility Contact, Title, and Phone	Damian Skinner, Manager (310) 253-6421
Diamond Bar (*4B190166001*)	**Mailing Address**	21825 East Copley Drive
		Diamond Bar, CA 91765-4177
	Facility Contact, Title, and E-mail	David Liu, Director of Public Works dliu@diamondbarca.gov
Downey (*4B190167001*)	**Mailing Address**	P.O. Box 7016
		Downey, CA 90241-7016
	Facility Contact , Title, and E-mail	Yvonne Blumberg yblumberg@downeyca.org
Duarte (*4B190168001*)	**Mailing Address**	1600 Huntington Drive
		Duarte, CA 91010-2592
	Facility Contact, Title, and Phone	Steve Esbenshades, Engineering Division Manager (626) 357-7931 ext. 233
El Monte (*4B190169001*)	**Mailing Address**	P.O. Box 6008
		El Monte, CA 91731
	Facility Contact, Title, and Phone	James A Enriquez, Director of Public Works (626) 580-2058
El Segundo (*4B190170001*)	**Mailing Address**	350 Main Street
		El Segundo, CA 90245-3895
	Facility Contact, Title, Phone, and E-mail	Stephanie Katsouleas, Public Works Director (310) 524-2356 skatsouleas@elsegundo.org
Gardena (*4B190118002*)	**Mailing Address**	P.O. Box 47003
		Gardena, CA 90247-3778

Permittee (WDID)	Contact Information	
	Facility Contact, Title, and E-mail	Ron Jackson, Building Maintenance Supervisor jfelix@ci.gardena.ci.us
Glendale (*4B190171001*)	**Mailing Address**	Engineering Section, 633 East Broadway, Room 209
		Glendale, CA 91206-4308
	Facility Contact, Title, and E-mail	Maurice Oillataguerre, Senior Environmental Program Scientist moillataguerre@ci.glendale.ca.us
Glendora (*4B190172001*)	**Mailing Address**	116 East Foothill Boulevard
		Glendora, CA 91741
	Facility Contact, Title, and E-mail	Dave Davies, Deputy Director of Public Works ddavies@ci.glendora.ca.us
Hawaiian Gardens (*4B190173001*)	**Mailing Address**	21815 Pioneer Boulevard
		Hawaiian Gardens, CA 90716
	Facility Contact, Title, and E-mail	Joseph Colombo, Director of Community Development jcolombo@ghcity.org
Hawthorne (*4B190174001*)	**Mailing Address**	4455 West 126th Street
		Hawthorne, CA 90250-4482
	Facility Contact, Title, and E-mail	Arnold Shadbehr, Chief General Service and Public Works ashadbehr@cityofhawthorne.org
Hermosa Beach (*4B190175001*)	**Mailing Address**	1315 Valley Drive
		Hermosa Beach, CA 90254-3884
	Facility Contact, Title, and E-mail	Homayoun Behboodi, Associate Engineer hbehboodi@hermosabch.org
Hidden Hills (*4B190176001*)	**Mailing Address**	6165 Spring Valley Road
		Hidden Hills, CA 91302
	Facility Contact, Title, and Phone	Kimberly Colberts, Environmental Coordinator (310) 257-2004
Huntington Park (*4B190177001*)	**Mailing Address**	6550 Miles Avenue
		Huntington Park, CA 90255
	Facility Contact, Title, and Phone	Craig Melich, City Engineer and City Official (323) 584-6253
Industry (*4B190178001*)	**Mailing Address**	P.O. Box 3366
		Industry, CA 91744-3995
	Facility Contact and Title	Mike Nagaoka, Director of Public Safety
Inglewood (*4B190179001*)	**Mailing Address**	1 W. Manchester Blvd, 3rd Floor
		Inglewood, CA 90301-1750
	Facility Contact, Title, and E-mail	Lauren Amimoto, Senior Administrative Analyst lamimoto@cityofinglewood.org
Irwindale (*4B190180001*)	**Mailing Address**	5050 North Irwindale Avenue
		Irwindale, CA 91706
	Facility Contact, Title, and E-mail	Kwok Tam, Director of Public Works ktam@ci.irwindale.ca.us
La Canada Flintridge (*4B190181001*)	**Mailing Address**	1327 Foothill Boulevard
		La Canada Flintridge, CA 91011-2137
	Facility Contact, Title, and E-mail	Edward G. Hitti, Director of Public Works ehitti@lcf.ca.gov
La Habra Heights (*4B190182001*)	**Mailing Address**	1245 North Hacienda Boulevard
		La Habra Heights, CA 90631-2570
	Facility Contact, Title, and E-mail	Shauna Clark, City Manager shaunac@lhhcity.org
La Mirada	**Mailing Address**	13700 La Mirada Boulevard

Permittee (WDID)	Contact Information	
(*4B190183001*)		La Mirada, CA 90638-0828
	Facility Contact, Title, and E-mail	Steve Forster, Public Works Director sforster@cityoflamirada.org
La Puente (*4B190184001*)	**Mailing Address**	15900 East Marin Street
		La Puente, CA 91744-4788
	Facility Contact, Title, and E-mail	John DiMario, Director of Development Services jdimario@lapuente.org
La Verne (*4B190185001*)	**Mailing Address**	3660 "D" Street
		La Verne, CA 91750-3599
	Facility Contact, Title, and E-mail	Daniel Keesey, Director of Public Works dkeesey@ci.la-verne.ca.us
Lakewood (*4B190186001*)	**Mailing Address**	P.O. Box 158
		Lakewood, CA 90714-0158
	Facility Contact and E-mail	Konya Vivanti kvivanti@lakewoodcity.org
Lawndale (*4B190127002*)	**Mailing Address**	14717 Burin Avenue
		Lawndale, CA 90260
	Facility Contact and Title	Marlene Miyoshi, Senior Administrative Analyst
Lomita (*4B190187001*)	**Mailing Address**	P.O. Box 339
		Lomita, CA 90717-0098
	Facility Contact, Title, and E-mail	Tom A. Odom, City Administrator d.tomita@lomitacity.com
Los Angeles (*4B190188001*)	**Mailing Address**	1149 S. Broadway, 10th Floor
		Los Angeles, CA 90015
	Facility Contact, Title, and Phone	Shahram Kharaghani, Program Manager (213) 485-0587
Lynwood (*4B190189001*)	**Mailing Address**	11330 Bullis Road
		Lynwood, CA 90262-3693
	Facility Contact and Phone	Josef Kekula (310) 603-0220 ext. 287
Malibu (*4B190190001*)	**Mailing Address**	23825 Stuart Ranch Road
		Malibu, CA 90265-4861
	Facility Contact, Title, and E-mail	Jennifer Brown, Environmental Program Analyst jbrown@malibucity.org
Manhattan Beach (*4B190191001*)	**Mailing Address**	1400 Highland Avenue
		Manhattan Beach, CA 90266-4795
	Facility Contact, Title, and Email	Brian Wright, Water Supervisor bwright@citymb.info
Maywood (*4B190192001*)	**Mailing Address**	4319 East Slauson Avenue
		Maywood, CA 90270-2897
	Facility Contact, Title, and Phone	Andre Dupret, Project Manager (323) 562-5721
Monrovia (*4B190193001*)	**Mailing Address**	415 South Ivy Avenue
		Monrovia, CA 91016-2888
	Facility Contact and E-mail	Heather Maloney hmaloney@ci.monrovia.ca.gov
Montebello (*4B190194001*)	**Mailing Address**	1600 West Beverly Boulevard
		Montebello, CA 90640-3970
	Facility Contact and E-mail	Cory Roberts croberts@aaeinc.com
Monterey Park	**Mailing Address**	320 West Newmark Avenue

Permittee (WDID)	Contact Information	
(*4B190195001*)		Monterey Park, CA 91754-2896
	Facility Contact, Phone, and E-mail	Amy Ho (626) 307-1383 amho@montereypark.ca.gov John Hunter (Consultant) at jhunter@jhla.net
Norwalk (*4B190196001*)	**Mailing Address**	P.O. Box 1030
		Norwalk, CA 90651-1030
	Facility Contact and Title	Chino Consunji, City Engineer
Palos Verdes Estates (*4B190197001*)	**Mailing Address**	340 Palos Verdes Drive West
		Palos Verdes Estates, CA 90274
	Facility Contact, Title, and E-mail	Allan Rigg, Director of Public Works arigg@pvestates.org
Paramount (*4B190198001*)	**Mailing Address**	16400 Colorado Avenue
		Paramount, CA 90723-5091
	Facility Contact, Title, and E-mail	Chris Cash, Utility and Infrastructure Assistant Director ccash@paramountcity,org
Pasadena (*4B190199001*)	**Mailing Address**	P.O. Box 7115
		Pasadena, CA 91109-7215
	Facility Contact and E-mail	Stephen Walker swalker@cityofpasadena.net
Pico Rivera (*4B190200001*)	**Mailing Address**	P.O. Box 1016
		Pico Rivera, CA 90660-1016
	Facility Contact, Title, and E-mail	Art Cervantes, Director of Public Works acervantes@pico-rivera.org
Pomona (*4B190145003*)	**Mailing Address**	P.O. Box 660
		Pomona, CA 91769-0660
	Facility Contact, Title, and E-mail	Julie Carver, Environmental Programs Coordinator Julie_Carver@ci.pomona.ca.us
Rancho Palos Verdes (*4B190201001*)	**Mailing Address**	30940 Hawthorne Boulevard
		Rancho Palos Verdes, CA 90275
	Facility Contact, Title, and E-mail	Ray Holland, Interim Public Works Director clehr@rpv.com
Redondo Beach (*4B190143002*)	**Mailing Address**	P.O. Box 270
		Redondo Beach, CA 90277-0270
	Facility Contact, Title, and E-mail	Mike Shay, Principal Civil Engineer mshay@redondo.org
Rolling Hills (*4B190202001*)	**Mailing Address**	2 Portuguese Bend Road
		Rolling Hills, CA 90274-5199
	Facility Contact, Title, and E-mail	Greg Grammer, Assistant to the City Manager ggrammer@rollinghillsestatesca.gov
Rolling Hills Estates (*4B190203001*)	**Mailing Address**	4045 Palos Verdes Drive North
		Rolling Hills Estates, CA 90274
	Facility Contact, Title, and E-mail	Greg Grammer, Assistant to the City Manager ggrammer@rollinghillsestatesca.gov
Rosemead (*4B190204001*)	**Mailing Address**	8838 East Valley Boulevard
		Rosemead, CA 91770-1787
	Facility Contact, Title, and Phone	Chris Marcarello, Director of PW (626) 569-2118
San Dimas (*4B190205001*)	**Mailing Address**	245 East Bonita Avenue
		San Dimas, CA 91773-3002
	Facility Contact, Title,	Latoya Cyrus, Environmental Services Coordinator

Permittee (WDID)	Contact Information	
	and E-mail	lcyrus@ci.san-dimas.ca.us
San Fernando (*4B190206001*)	**Mailing Address**	117 Macneil Street
		San Fernando, CA 91340
	Facility Contact, Title, and E-mail	Ron Ruiz, Director of Public Works rruiz@sfcity.org
San Gabriel (*4B190207001*)	**Mailing Address**	425 South Mission Drive
		San Gabriel, CA 91775
	Facility Contact, Title, and Phone	Daren T. Grilley, City Engineer (626) 308-2806 ext. 4631
San Marino (*4B190208001*)	**Mailing Address**	2200 Huntington Drive
		San Marino, CA 91108-2691
	Facility Contact, Title, and E-mail	Chuck Richie, Director of Parks and Public Works crichie@cityofsanmarino.org
Santa Clarita (*4B190117001*)	**Mailing Address**	23920 West Valencia Boulevard, Suite 300
		Santa Clarita, CA 91355
	Facility Contact, Title, and Phone	Travis Lange, Environmental Services Manager (661) 255-4337
Santa Fe Springs (*4B190108003*)	**Mailing Address**	P.O. Box 2120
		Santa Fe Springs, CA 90670-2120
	Facility Contact, Title, and E-mail	Sarina Morales-Choate, Civil Engineer Assistant smorales-choate@santafesprings.org
Santa Monica (*4B190122002*)	**Mailing Address**	1685 Main Street
		Santa Monica, CA 90401-3295
	Facility Contact, Title, and E-mail	Neal Shapiro, Urban Runoff Coordinator nshapiro@smgov.net
Sierra Madre (*4B190209001*)	**Mailing Address**	232 West Sierra Madre Boulevard
		Sierra Madre, CA 91024-2312
	Facility Contact, Title, and Phone	James Carlson, Management Analyst (626) 355-7135 ext. 803
Signal Hill (*4B190210001*)	**Mailing Address**	2175 Cherry Avenue
		Signal Hill, CA 90755
	Facility Contact, Phone, and E-mail	John Hunter (562) 802-7880 jhunter@jlha.net
South El Monte (*4B190211001*)	**Mailing Address**	1415 North Santa Anita Avenue
		South El Monte, CA 91733-3389
	Facility Contact and Phone	Anthony Ybarra, City Manager (626) 579-6540
South Gate (*4B190212001*)	**Mailing Address**	8650 California Avenue
		South Gate, CA 90280
	Facility Contact, Phone, and E-mail	John Hunter (562) 802-7880 jhunter@jlha.net
South Pasadena (*4B190213001*)	**Mailing Address**	1414 Mission Street
		South Pasadena, CA 91030-3298
	Facility Contact, Phone, and E-mail	John Hunter (562) 802-7880 jhunter@jlha.net
Temple City (*4B190214001*)	**Mailing Address**	9701 Las Tunas Drive
		Temple City, CA 91780-2249
	Facility Contact,	Joe Lambert at (626) 285-2171 or

Permittee (WDID)	Contact Information	
	Phone, and E-mail	John Hunter at (562) 802-7880/jhunter@jlha.net
Torrance (*4B190215001*)	**Mailing Address**	3031 Torrance Boulevard
		Torrance, CA 90503-5059
	Facility Contact and Title	Leslie Cortez, Senior Administrative Assistant
Vernon (*4B190216001*)	**Mailing Address**	4305 Santa Fe Avenue
		Vernon, CA 90058-1786
	Facility Contact and Phone	Claudia Arellano (323) 583-8811
Walnut (*4B190217001*)	**Mailing Address**	P.O. Box 682
		Walnut, CA 91788
	Facility Contact and Title	Jack Yoshino, Senior Management Assistant
West Covina (*4B190218001*)	**Mailing Address**	P.O. Box 1440
		West Covina, CA 91793-1440
	Facility Contact, Title, and E-mail	Samuel Gutierrez, Engineering Technician sam.gutierrez@westcovina.org
West Hollywood (*4B190219001*)	**Mailing Address**	8300 Santa Monica Boulevard
		West Hollywood, CA 90069-4314
	Facility Contact, Title, and E-mail	Sharon Perlstein, City Engineer sperlstein@weho.org
Westlake Village (*4B190220001*)	**Mailing Address**	31200 Oak Crest Drive
		Westlake Village, CA 91361
	Facility Contact, Title, Phone, and E-mail	Joe Bellomo, Stormwater Program Manager (805) 279-6856 jbellomo@willdan.com
Whittier (*4B190221001*)	**Mailing Address**	13230 Penn Street
		Whittier, CA 90602-1772
	Facility Contact, Title, and E-mail	David Mochizuki, Director of Public Works dmochizuki@cityofwhittier.org
County of Los Angeles (*4B190107099*)	**Mailing Address**	900 South Fremont Avenue
		Alhambra, CA 91803
	Facility Contact, Title, Phone, and E-mail	Gary Hildebrand, Assistant Deputy Director, Division Engineer (626) 458-4300 ghildeb@dpw.lacounty.gov
Los Angeles County Flood Control District (*4B190107101*)	**Mailing Address**	900 South Fremont Avenue
		Alhambra, CA 91803
	Facility Contact, Title, Phone, and E-mail	Gary Hildebrand, Assistant Deputy Director, Division Engineer (626) 458-4300 ghildeb@dpw.lacounty.gov

Table 3. Discharge Location

Discharge Point	Effluent Description	Discharge Point Latitude	Discharge Point Longitude	Receiving Water
All Municipal Separate Storm Sewer System discharge points within Los Angeles County with the exception of the City of Long Beach	Storm Water and Non-Storm Water	Numerous	Numerous	Surface waters identified in Tables 2-1, 2-1a, 2-3, and 2-4, and Appendix 1, Table 1 of the *Water Quality Control Plan - Los Angeles Region* (*Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties*), and other unidentified tributaries to these surface waters within the following Watershed Management Areas: (1) Santa Clara River Watershed; (2) Santa Monica Bay Watershed Management Area, including Malibu Creek Watershed and Ballona Creek Watershed; (3) Los Angeles River Watershed; (4) Dominguez Channel and Greater Los Angeles/Long Beach Harbors Watershed Management Area; (5) Los Cerritos Channel and Alamitos Bay Watershed Management Area; (6) San Gabriel River Watershed; and (7) Santa Ana River Watershed.[1]

Table 4. Administrative Information

This Order was adopted by the California Regional Water Quality Control Board, Los Angeles Region on:	**November 8, 2012**
This Order becomes effective on:	**December 28, 2012**
This Order expires on:	**December 28, 2017**
In accordance with Title 23, Division 3, Chapter 9 of the California Code of Regulations and Title 40, Part 122 of the Code of Federal Regulations, each Discharger shall file a Report of Waste Discharge as application for issuance of new waste discharge requirements no later than:	**180 days prior to the Order expiration date above**

[1] Note that the Santa Ana River Watershed lies primarily within the boundaries of the Santa Ana Regional Water Quality Control Board. However, a portion of the Chino Basin subwatershed lies within the jurisdictions of Pomona and Claremont in Los Angeles County. The primary receiving waters within the Los Angeles County portion of the Chino Basin subwatershed are San Antonio Creek and Chino Creek.

In accordance with section 2235.4 of Title 23 of the California Code of Regulations, the terms and conditions of an expired permit are automatically continued pending issuance of a new permit if all requirements of the federal NPDES regulations on continuation of expired permits are complied with. Accordingly, if a new order is not adopted by the expiration date above, then the Permittees shall continue to implement the requirements of this Order until a new one is adopted.

I, Samuel Unger, Executive Officer, do hereby certify that this Order with all attachments is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Los Angeles Region, on November 8, 2012.

Samuel Unger

Samuel Unger, Executive Officer

Table of Contents

I. Facility Information 1
II. Findings 13
III. Discharge Prohibitions 27
A. Prohibitions – Non-Storm Water Discharges 27
IV. Effluent Limitations and Discharge Specifications 38
A. Effluent Limitations 38
B. Land Discharge Specifications – Not Applicable 38
C. Reclamation Specifications – Not Applicable 38
V. Receiving Water Limitations 38
A. Receiving Water Limitations 38
B. Ground Water Limitations – Not Applicable 39
VI. Provisions 39
A. Standard Provisions 39
B. Monitoring and Reporting Program (MRP) Requirements 46
C. Watershed Management Programs 47
D. Storm Water Management Program Minimum Control Measures 67
E. Total Maximum Daily Load Provisions 141

List of Tables

Table 1. Discharger Information 1
Table 2. Facility Information 1
Table 3. Discharge Location 9
Table 4. Administrative Information 9
Table 5. List of Permittees 16
Table 6. Basin Plan Beneficial Uses 21
Table 7. Ocean Plan Beneficial Uses 24
Table 8. Required Conditions for Conditionally Exempt Non-Storm Water Discharges 34
Table 9. Watershed Management Program Implementation Requirements 54
Table 10. Source Control BMPs at Commercial and Industrial Facilities 93
Table 11. Benchmarks Applicable to New Development Treatment BMPs 104
Table 12. Minimum Set of BMPs for All Construction Sites 114
Table 13. Minimum Set of BMPs for All Construction Sites 118
Table 14. Additional BMPs Applicable to Construction Sites Disturbing 1 Acre or More 118
Table 15. Additional Enhanced BMPs for High Risk Sites 118
Table 16. Minimum Required BMPs for Roadway Paving or Repair Operation 119
Table 17. Inspection Frequencies 120
Table 18. BMPs for Public Agency Facilities and Activities 127
Table 19. Discharge Limitations for Dewatering Treatment BMPs 134

List of Attachments

Attachment A – Definitions A-1
Attachment B – Watershed Management Area Maps B-1
Attachment C – MS4 Maps by Watershed Management Area C-1
Attachment D – Standard Provisions D-1
Attachment E – Monitoring and Reporting Program E-1
Attachment F – Fact Sheet F-1
Attachment G – Non-Storm Water Action Levels G-1
Attachment H – Bioretention/Biofiltration Design Criteria H-1
Attachment I – Developer Technical Information and Guidelines I-1
Attachment J – Determination of Erosion Potential J-1
Attachment K – Permittees and TMDLs Matrix K-1
Attachment L – TMDL Provisions for Santa Clara River Watershed Management Area L-1
Attachment M – TMDL Provisions for Santa Monica Bay Watershed Management Area (including Malibu Creek, Ballona Creek, and Marina del Rey Subwatersheds) M-1
Attachment N – TMDL Provisions for Dominguez Channel and Greater Harbor Waters Watershed Management Area (including Machado Lake Subwatershed) N-1
Attachment O – TMDL Provisions for Los Angeles River Watershed Management Area O-1
Attachment P – TMDL Provisions for San Gabriel River Watershed Management Area P-1
Attachment Q – TMDL Provisions for Los Cerritos Channel and Alamitos Bay Watershed Management Area Q-1
Attachment R – TMDL Provisions for Middle Santa Ana River Watershed Management Area R-1

II. FINDINGS

The California Regional Water Quality Control Board, Los Angeles Region (hereinafter Regional Water Board) finds:

A. Nature of Discharges and Sources of Pollutants

Storm water and non-storm water discharges consist of surface runoff generated from various land uses, which are conveyed via the municipal separate storm sewer system and ultimately discharged into surface waters throughout the region. Discharges of storm water and non-storm water from the Municipal Separate Storm Sewer Systems (MS4s) within the Coastal Watersheds of Los Angeles County convey pollutants to surface waters throughout the Los Angeles Region. In general, the primary pollutants of concern in these discharges identified by the Los Angeles County Flood Control District Integrated Receiving Water Impacts Report (1994-2005) are indicator bacteria, total aluminum, copper, lead, zinc, diazinon, and cyanide. Aquatic toxicity, particularly during wet weather, is also a concern based on a review of Annual Monitoring Reports from 2005-10. Storm water and non-storm water discharges of debris and trash are also a pervasive water quality problem in the Los Angeles Region though significant strides have been made by a number of Permittees in addressing this problem through the implementation of control measures to achieve wasteload allocations established in trash TMDLs.

Pollutants in storm water and non-storm water have damaging effects on both human health and aquatic ecosystems. Water quality assessments conducted by the Regional Water Board have identified impairment of beneficial uses of water bodies in the Los Angeles Region caused or contributed to by pollutant loading from municipal storm water and non-storm water discharges. As a result of these impairments, there are beach postings and closures, fish consumption advisories, local and global ecosystem and aesthetic impacts from trash and debris, reduced habitat for threatened and endangered species, among others. The Regional Water Board and USEPA have established 33 total maximum daily loads (TMDLs) that identify Los Angeles County MS4 discharges as one of the pollutant sources causing or contributing to these water quality impairments.

B. Permit History

Prior to the issuance of this Order, Regional Water Board Order No. 01-182 served as the NPDES Permit for MS4 storm water and non-storm water discharges within the Coastal Watersheds of the County of Los Angeles. The requirements of Order No. 01-182 applied to the Los Angeles County Flood Control District, the unincorporated areas of Los Angeles County under County jurisdiction, and 84 Cities within the Los Angeles County Flood Control District with the exception of the City of Long Beach. The first county-wide MS4 permit for the County of Los Angeles and the incorporated areas therein was Order No. 90-079, adopted by the Regional Water Board on June 18, 1990.

Under Order No. 01-182, the Los Angeles County Flood Control District was designated the Principal Permittee, and the County of Los Angeles and 84 incorporated Cities were each designated Permittees. The Principal Permittee coordinated and facilitated activities necessary to comply with the requirements of Order No. 01-182, but was not responsible for ensuring compliance of any of the other Permittees. The designation of a Principal Permittee has not been carried over from Order No. 01-182.

Order No. 01-182 was subsequently amended by the Regional Water Board on September 14, 2006 by Order No. R4-2006-0074 to incorporate provisions consistent with the assumptions and requirements of the Santa Monica Bay Beaches Dry Weather Bacteria TMDL (SMB Dry Weather Bacteria TMDL) waste load allocations (WLAs). As a result of a legal challenge to Order No. R4-2006-0074, the Los Angeles County Superior Court issued a peremptory writ of mandate on July 23, 2010 requiring the Regional Water Board to void and set aside the amendments adopted through Order No. R4-2006-0074 in Order No. 01-182. The Court concluded that the permit proceeding at which Order No. R4-2006-0074 was adopted was procedurally deficient. The Court did not address the substantive merits of the amendments themselves, and thus made no determination about the substantive validity of Order No. R4-2006-0074. In compliance with the writ of mandate, the Regional Water Board voided and set aside the amendments adopted through Order No. R4-2006-0074 on April 14, 2011. This Order reincorporates requirements equivalent to the 2006 provisions to implement the SMB Dry Weather Bacteria TMDL.

In addition, Order No. 01-182 was amended on August 9, 2007 by Order No. R4-2007-0042 to incorporate provisions consistent with the assumptions and requirements of the Marina del Rey Harbor Mothers' Beach and Back Basins Bacteria TMDL, and was again amended on December 10, 2009 by Order No. R4-2009-0130 to incorporate provisions consistent with the assumptions and requirements of the Los Angeles River Watershed Trash TMDL.

C. Permit Application

On June 12, 2006, prior to the expiration date of Order No. 01-182, all of the Permittees filed Reports of Waste Discharge (ROWD) applying for renewal of their waste discharge requirements that serve as an NPDES permit to discharge storm water and authorized and conditionally exempt non-storm water through their MS4 to surface waters. Specifically, the Los Angeles County Flood Control District (LACFCD) submitted an ROWD application on behalf of itself, the County of Los Angeles, and 78 other Permittees. Several Permittees under Order No. 01-182 elected to not be included as part of the Los Angeles County Flood Control District's ROWD. On June 12, 2006, the Cities of Downey and Signal Hill each submitted an individual ROWD application requesting a separate MS4 Permit; and the Upper San Gabriel River Watershed Coalition, comprised of the cities of Azusa, Claremont, Glendora, Irwindale, and Whittier also submitted an individual ROWD application requesting a separate MS4 Permit for these cities. In 2010, the LACFCD withdrew from its participation in the 2006 ROWD submitted in conjunction with the County and 78 other co-permittees, and submitted a new ROWD also requesting an individual MS4 permit. The LACFCD also requested that, if an individual MS4 permit was not issued to it, it no longer be designated as the

Principal Permittee and it be relieved of Principal Permittee responsibilities. The Regional Water Board evaluated each of the 2006 ROWDs and notified all of the Permittees that their ROWDs did not satisfy federal storm water regulations contained in the USEPA Interpretive Policy Memorandum on Reapplication Requirements for Municipal Separate Storm Sewer Systems; Final Rule, August 9, 1996 (61 *Fed Reg.* 41697). Because each ROWD did not satisfy federal requirements, the Regional Water Board deemed all four 2006 ROWDs incomplete. The Regional Water Board also evaluated the LACFCD's 2010 ROWD and found that it too did not satisfy federal requirements for MS4s.

Though five separate ROWDs were submitted, the Regional Water Board retains discretion as the permitting authority to determine whether to issue permits for discharges from MS4s on a system-wide or jurisdiction-wide basis (Clean Water Act (CWA) § 402(p)(3)(B)(i); 40 CFR section 122.26, subdivisions (a)(1)(v) and (a)(3)(ii)). Because of the complexity and networking of the MS4 within Los Angeles County, which often results in commingled discharges, the Regional Water Board has previously adopted a system-wide approach to permitting MS4 discharges within Los Angeles County.

In evaluating the five separate ROWDs, the Regional Water Board considered the appropriateness of permitting discharges from MS4s within Los Angeles County on a system-wide or jurisdiction-wide basis or a combination of both. Based on that evaluation, the Regional Water Board again determined that, because of the complexity and networking of the MS4 within Los Angeles County, that one system-wide permit is appropriate. In order to provide individual Permittees with more specific requirements, certain provisions of this Order are organized by watershed management area, which is appropriate given the requirements to implement 33 watershed-based TMDLs. The Regional Water Board also determined that because the LACFCD owns and operates large portions of the MS4 infrastructure, including but not limited to catch basins, storm drains, outfalls and open channels, in each coastal watershed management area within Los Angeles County, the LACFCD should remain a Permittee in the single system-wide permit; however, this Order relieves the LACFCD of its role as "Principal Permittee."

D. Permit Coverage and Facility Description

The Los Angeles County Flood Control District, the County of Los Angeles, and 84 incorporated cities within the Los Angeles County Flood Control District with the exception of the City of Long Beach (see Table 5, List of Permittees), hereinafter referred to separately as Permittees and jointly as the Dischargers, discharge storm water and non-storm water from municipal separate storm sewer systems (MS4s), also called storm drain systems. For the purposes of this Order, references to the "Discharger" or "Permittee" in applicable federal and state laws, regulations, plans, or policy are held to be equivalent to references to the Discharger, or Permittees herein.

The area covered under this Order encompasses more than 3,000 square miles. This area contains a vast drainage network that serves incorporated and unincorporated areas in every Watershed Management Area within the Los Angeles Region. Maps

depicting the major drainage infrastructure within the area covered under this Order are included in Attachment C of this Order.

Table 5. List of Permittees

Agoura Hills	Hawaiian Gardens	Pomona
Alhambra	Hawthorne	Rancho Palos Verdes
Arcadia	Hermosa Beach	Redondo Beach
Artesia	Hidden Hills	Rolling Hills
Azusa	Huntington Park	Rolling Hills Estates
Baldwin Park	Industry	Rosemead
Bell	Inglewood	San Dimas
Bell Gardens	Irwindale	San Fernando
Bellflower	La Canada Flintridge	San Gabriel
Beverly Hills	La Habra Heights	San Marino
Bradbury	La Mirada	Santa Clarita
Burbank	La Puente	Santa Fe Springs
Calabasas	La Verne	Santa Monica
Carson	Lakewood	Sierra Madre
Cerritos	Lawndale	Signal Hill
Claremont	Lomita	South El Monte
Commerce	Los Angeles	South Gate
Compton	Lynwood	South Pasadena
Covina	Malibu	Temple City
Cudahy	Manhattan Beach	Torrance
Culver City	Maywood	Vernon
Diamond Bar	Monrovia	Walnut
Downey	Montebello	West Covina
Duarte	Monterey Park	West Hollywood
El Monte	Norwalk	Westlake Village
El Segundo	Palos Verdes Estates	Whittier
Gardena	Paramount	County of Los Angeles
Glendale	Pasadena	Los Angeles County Flood Control District
Glendora	Pico Rivera	

E. Los Angeles County Flood Control District

In 1915, the California Legislature enacted the Los Angeles County Flood Control Act, establishing the Los Angeles County Flood Control District (LACFCD). The objects and purposes of the Act are to provide for the control and conservation of the flood, storm and other waste waters within the flood control district. Among its other powers, the LACFCD also has the power to preserve, enhance, and add recreational features to lands or interests in lands contiguous to its properties for the protection, preservation, and use of the scenic beauty and natural environment for the properties or the lands. The LACFCD is governed, as a separate entity, by the County of Los Angeles Board of Supervisors.

The LACFCD's system includes the majority of drainage infrastructure within incorporated and unincorporated areas in every watershed, including approximately 500 miles of open channel, 3,500 miles of underground drains, and an estimated 88,000 catch basins, and several dams. Portions of the LACFCD's current system were originally unmodified natural rivers and water courses.

The LACFCD's system conveys both storm and non-storm water throughout the Los Angeles basin. Other Permittees' MS4s connect and discharge to the LACFCD's system.

The waters and pollutants discharged from the LACFCD's system come from various sources. These sources can include storm water and non-storm water from the Permittees under this permit and other NPDES and non-NPDES Permittees discharging into the LACFCD's system, including industrial waste water dischargers, waste water treatment facilities, industrial and construction stormwater Permittees, water suppliers, government entities, CERCLA potentially responsible parties, and Caltrans. Sources can also include discharges from school districts that do not operate large or medium-sized municipal storm sewers and discharges from entities that have waste discharge requirements or waivers of waste discharge requirements.

Unlike other Permittees, including the County of Los Angeles, the LACFCD does not own or operate any municipal sanitary sewer systems, public streets, roads, or highways.

The LACFCD in contrast to the County of Los Angeles has no planning, zoning, development permitting or other land use authority over industrial or commercial facilities, new developments or re-development projects, or development construction sites located in any incorporated or unincorporated areas within its service area. The Permittees that have such land use authority are responsible for implementing a storm water management program to inspect and control pollutants from industrial and commercial facilities, new development and re-development projects, and development construction sites within their jurisdictional boundaries. Nonetheless, as an owner and operator of MS4s, the LACFCD is required by federal regulations to control pollutant discharges into and from its MS4, including the ability to control through interagency agreements among co-Permittees and other owners of a MS4 the contribution of pollutants from one portion of the MS4 to another portion of the MS4.

F. Permit Scope

This Order regulates municipal discharges of storm water and non-storm water from the Permittees' MS4s. Section 122.26(b)(8) of title 40 of the Code of Federal Regulations (CFR) defines an MS4 as "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) [o]wned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian

tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States; (ii) [d]esigned or used for collecting or conveying storm water; (iii) [w]hich is not a combined sewer; and (iv) [w]hich is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2."

Storm water discharges consist of those discharges that originate from precipitation events. Federal regulations define "storm water" as "storm water runoff, snow melt runoff, and surface runoff and drainage." (40 CFR § 122.26(b)(13).) While "surface runoff and drainage" is not defined in federal law, USEPA's preamble to its final storm water regulations demonstrates that the term is related to precipitation events such as rain and/or snowmelt. (55 *Fed. Reg.* 47990, 47995-96 (Nov. 16, 1990)).

Non-storm water discharges consist of all discharges through an MS4 that do not originate from precipitation events. Non-storm water discharges through an MS4 are prohibited unless authorized under a separate NPDES permit; authorized by USEPA pursuant to Sections 104(a) or 104(b) of the federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA); composed of natural flows; the result of emergency fire fighting activities; or conditionally exempted in this Order.

A permit issued to more than one Permittee for MS4 discharges may contain separate storm water management programs for particular Permittees or groups of Permittees. 40 CFR § 122.26(d)(2)(iv). Given the LACFCD's limited land use authority, it is appropriate for the LACFCD to have a separate and uniquely-tailored storm water management program. Accordingly, the storm water management program minimum control measures imposed on the LACFCD in Part VI.D of this Order differ in some ways from the minimum control measures imposed on other Permittees. Namely, aside from its own properties and facilities, the LACFCD is not subject to the Industrial/Commercial Facilities Program, the Planning and Land Development Program, and the Development Construction Program. However, as a discharger of storm and non-storm water, the LACFCD remains subject to the Public Information and Participation Program and the Illicit Connections and Illicit Discharges Elimination Program. Further, as the owner and operator of certain properties, facilities and infrastructure, the LACFCD remains subject to requirements of a Public Agency Activities Program.

G. Geographic Coverage and Watershed Management Areas

The municipal storm water and non-storm water discharges flow into receiving waters in the Watershed Management Areas of the Santa Clara River Watershed; Santa Monica Bay Watershed Management Area, including Malibu Creek Watershed and Ballona Creek Watershed; Los Angeles River Watershed; Dominguez Channel and Greater Los Angeles/Long Beach Harbors Watershed Management Area; Los Cerritos Channel and Alamitos Bay Watershed Management Area; San Gabriel River Watershed; and Santa Ana River Watershed.

This Order redefines Watershed Management Areas (WMAs) consistent with the delineations used in the Regional Water Board's Watershed Management Initiative. Permittees included in each of the WMAs are listed in Attachment K.

Maps depicting each WMA, its subwatersheds, and the major receiving waters therein are included in Attachment B.

Federal, state, regional or local entities in jurisdictions outside the Los Angeles County Flood Control District, and not currently named as Permittee to this Order, may operate MS4 facilities and/or discharge to the MS4 and water bodies covered by this Order. Pursuant to 40 CFR sections 122.26(d)(1)(ii) and 122.26(d)(2)(iv), each Permittee shall maintain the necessary legal authority to control the contribution of pollutants to its MS4 and shall include in its storm water management program a comprehensive planning process that includes intergovernmental coordination, where necessary.

Sources of MS4 discharges into receiving waters in the County of Los Angeles but not covered by this Order include the following:

- About 34 square miles of unincorporated area in Ventura County, which drain into Malibu Creek and then to Santa Monica Bay,
- About 9 square miles of the City of Thousand Oaks, which also drain into Malibu Creek and then to Santa Monica Bay, and
- About 86 square miles of area in Orange County, which drain into Coyote Creek and then into the San Gabriel River.

Specifically, the Orange County Flood Control District (OCFCD) owns and operates the Los Alamitos Retarding Basin and Pumping Station (Los Alamitos Retarding Basin). The Los Alamitos Retarding Basin is within the San Gabriel River Watershed, and is located adjacent to the Los Angeles and Orange County boundary. The majority of the 30-acre Los Alamitos Retarding Basin is in Orange County; however, the northwest corner of the facility is located in the County of Los Angeles. Storm water and non-storm water discharges, which drain to the Los Alamitos Retarding Basin, are pumped to the San Gabriel River Estuary (SGR Estuary) through pumps and subterranean piping. The pumps and discharge point are located in the County of Los Angeles.

The OCFCD pumps the water within the Los Alamitos Retarding Basin to the San Gabriel River Estuary through four discharge pipes, which are covered by tide gates. The discharge point is located approximately 700 feet downstream from the 2nd Street Bridge in Long Beach. The total pumping capacity of the four pumps is 800 cubic feet per second (cfs). There is also a 5 cfs sump pump that discharges nuisance flow continuously to the Estuary though a smaller diameter uncovered pipe.

The discharge from the Los Alamitos Retarding Basin is covered under the Orange County Municipal NPDES Storm Water Permit (NPDES Permit No. CAS618030, Santa Ana Regional Water Quality Control Board Order No. R8-2010-0062), which was issued to the County of Orange, Orange County Flood Control District and Incorporated Cities on May 22, 2009. The Orange County MS4 Permit references the San Gabriel River Metals and Selenium TMDL (Metals TMDL). The waste load allocations listed in the

Metals TMDL for Coyote Creek are included in the Orange County MS4 Permit. However, the Orange County MS4 Permit does not contain the dry weather copper waste load allocations assigned to the Estuary.

H. Legal Authorities

This Order is issued pursuant to CWA section 402 and implementing regulations adopted by the USEPA and chapter 5.5, division 7 of the California Water Code (commencing with section 13370). This Order serves as an NPDES permit for point source discharges from the Permittees' MS4s to surface waters. This Order also serves as waste discharge requirements (WDRs) pursuant to article 4, chapter 4, division 7 of the California Water Code (commencing with Section 13260).

I. Municipal Separate Storm Sewer System Requirements. The 1972 Clean Water Act[2] established the NPDES Program to regulate the discharge of pollutants from point sources to waters of the United States. However, pollution from storm water and dry-weather urban runoff was largely unabated for over a decade. In response to the 1987 Amendments to the Clean Water Act, USEPA developed Phase I of the NPDES Storm Water Permitting Program in 1990, which established a framework for regulating municipal and industrial discharges of storm water and non-storm water. The Phase I program addressed sources of storm water and dry-weather urban runoff that had the greatest potential to negatively impact water quality. In particular, under Phase I, USEPA required NPDES Permit coverage for discharges from medium and large MS4 with populations of 100,000 or more. Operators of MS4s regulated under the Phase I NPDES Storm Water Program were required to obtain permit coverage for municipal discharges of storm water and non-storm water to waters of the United States

Early in the history of this MS4 Permit, the Regional Water Board designated the MS4s owned and/or operated by the incorporated cities and Los Angeles County unincorporated areas within the Coastal Watersheds of Los Angeles County as a large MS4 due to the total population of Los Angeles County, including that of unincorporated and incorporated areas, and the interrelationship between the Permittees' MS4s, pursuant to 40 CFR section 122.26(b)(4). The total population of the cities and County unincorporated areas covered by this Order was 9,519,338 in 2000 and has increased by approximately 300,000 to 9,818,605 in 2010, according to the United States Census.

This Order implements the federal Phase I NPDES Storm Water Program requirements. These requirements include three fundamental elements: (i) a requirement to effectively prohibit non-storm water discharges through the MS4, (ii) requirements to implement controls to reduce the discharge of pollutants to the maximum extent practicable, and (iii) other provisions the Regional Water Board has determined appropriate for the control of such pollutants.

J. Background and Rationale for Requirements. The Regional Water Board developed the requirements in this Order based on information submitted as part of the Permittees' applications, through monitoring and reporting programs, and other available

[2] Federal Water Pollution Control Act; 33 U.S.C. § 1251 et seq., which, as amended in 1977, is commonly known as the Clean Water Act.

information. In accordance with federal regulations at 40 CFR section 124.8, a Fact Sheet (Attachment F) has been prepared to explain the principal facts and the significant factual, legal, methodological, and policy questions considered in preparing this Order. The Fact Sheet is hereby incorporated into this Order and also constitutes part of the Findings of the Regional Water Board for this Order. Attachments A through E and G through R are also incorporated into this Order.

K. Water Quality Control Plans. The Clean Water Act requires the Regional Water Board to establish water quality standards for each water body in its region. Water quality standards include beneficial uses, water quality objectives and criteria that are established at levels sufficient to protect those beneficial uses, and an antidegradation policy to prevent degrading waters. The Regional Water Board adopted a *Water Quality Control Plan - Los Angeles Region* (hereinafter Basin Plan) on June 13, 1994 and has amended it on multiple occasions since 1994. The Basin Plan designates beneficial uses, establishes water quality objectives, and contains implementation programs and policies to achieve those objectives for all waters in the Los Angeles Region. Pursuant to California Water Code section 13263(a), the requirements of this Order implement the Basin Plan. Beneficial uses applicable to the surface water bodies that receive discharges from the Los Angeles County MS4 generally include those listed below.

Table 6. Basin Plan Beneficial Uses

Discharge Point	Receiving Water Name	Beneficial Uses
All Municipal Separate Storm Sewer Systems (MS4s) discharge points within Los Angeles County coastal watersheds with the exception of the City of Long Beach	Multiple surface water bodies of the Los Angeles Region	Municipal and Domestic Supply (MUN); Agricultural Supply (AGR); Industrial Service Supply (IND); Industrial Process Supply (PROC); Ground Water Recharge (GWR); Freshwater Replenishment (FRSH); Navigation (NAV); Hydropower Generation (POW); Water Contact Recreation (REC-1); Limited Contact Recreation (LREC-1); Non-Contact Water Recreation (REC-2); Commercial and Sport Fishing (COMM); Warm Freshwater Habitat (WARM); Cold Freshwater Habitat (COLD); Preservation of Areas of Special Biological Significance (BIOL); Wildlife Habitat (WILD); Preservation of Rare and Endangered Species (RARE); Marine Habitat (MAR); Wetland Habitat (WET); Migration of Aquatic Organisms (MIGR); Spawning, Reproduction, and/or Early Development (SPWN); Shellfish Harvesting (SHELL)

1. Total Maximum Daily Loads (TMDLs)

Clean Water Act section 303(d)(1) requires each state to identify the waters within its boundaries that do not meet water quality standards. Water bodies that do not meet water quality standards are considered impaired and are placed on the state's "CWA Section 303(d) List". For each listed water body, the state is required to establish a TMDL of each pollutant impairing the water quality standards in that water body. A TMDL is a tool for implementing water quality standards and is based on the relationship between pollution sources and in-stream water quality conditions. The

TMDL establishes the allowable pollutant loadings for a water body and thereby provides the basis to establish water quality-based controls. These controls should provide the pollution reduction necessary for a water body to meet water quality standards. A TMDL is the sum of the allowable pollutant loads of a single pollutant from all contributing point sources (the waste load allocations or WLAs) and non-point sources (load allocations or LAs), plus the contribution from background sources and a margin of safety. (40 CFR section 130.2(i).) MS4 discharges are considered point source discharges.

Numerous receiving waters within Los Angeles County do not meet water quality standards or fully support beneficial uses and therefore have been classified as impaired on the State's 303(d) List. The Regional Water Board and USEPA have each established TMDLs to address many of these water quality impairments. Pursuant to CWA section 402(p)(B)(3)(iii) and 40 CFR section 122.44(d)(1)(vii)(B), this Order includes requirements that are consistent with and implement WLAs that are assigned to discharges from the Los Angeles County MS4 from 33 State-adopted and USEPA established TMDLs. This Order requires Permittees to comply with the TMDL Provisions in Part VI.E and Attachments L through R, which are consistent with the assumptions and requirements of the TMDL WLAs assigned to discharges from the Los Angeles County MS4. A comprehensive list of TMDLs by watershed management area and the Permittees subject to each TMDL is included in Attachment K.

Waste load allocations in these TMDLs are expressed in several ways depending on the nature of the pollutant and its impacts on receiving waters and beneficial uses. Bacteria WLAs assigned to MS4 discharges are expressed as the number of allowable exceedance days that a water body may exceed the Basin Plan water quality objectives for protection of the REC-1 beneficial use. Since the TMDLs and the WLAs contained therein are expressed as receiving water conditions, receiving water limitations have been included in this Order that are consistent with and implement the allowable exceedance day WLAs. Water quality-based effluent limitations are also included equivalent to the Basin Plan water quality objectives to allow the opportunity for Permittees to individually demonstrate compliance at an outfall or jurisdictional boundary, thus isolating the Permittee's pollutant contributions from those of other Permittees and from other pollutant sources to the receiving water.

WLAs for trash are expressed as progressively decreasing allowable amounts of trash discharges from a Permittee's jurisdictional area within the drainage area to the impaired water body. The Trash TMDLs require each Permittee to make annual reductions of its discharges of trash over a set period, until the numeric target of zero trash discharged from the MS4 is achieved. The Trash TMDLs specify a specific formula for calculating and allocating annual reductions in trash discharges from each jurisdictional area within a watershed. The formula results in specified annual amounts of trash that may be discharged from each jurisdiction into the receiving waters. Translation of the WLAs or compliance points described in the TMDLs into jurisdiction-specific load reductions from the baseline levels, as specified

in the TMDL, logically results in the articulation of an annual limitation on the amount of a pollutant that may be discharged. The specification of allowable annual trash discharge amounts meets the definition of an "effluent limitation", as that term is defined in subdivision (c) of section 13385.1 of the California Water Code. Specifically, the trash discharge limitations constitute a "numeric restriction … on the quantity [or] discharge rate … of a pollutant or pollutants that may be discharged from an authorized location."

TMDL WLAs for other pollutants (e.g., metals and toxics) are expressed as concentration and/or mass and water quality-based effluent limitations have been specified consistent with the expression of the WLA, including any applicable averaging periods. Some TMDLs specify that, if certain receiving water conditions are achieved, such achievement constitutes attainment of the WLA. In these cases, receiving water limitations and/or provisions outlining these alternate means of demonstrating compliance are included in the TMDL provisions in Part VI.E of this Order.

The inclusion of water quality-based effluent limitations and receiving water limitations to implement applicable WLAs provides a clear means of identifying required water quality outcomes within the permit and ensures accountability by Permittees to implement actions necessary to achieve the limitations.

A number of the TMDLs for bacteria, metals, and toxics establish WLAs that are assigned jointly to a group of Permittees whose storm water and/or non-storm water discharges are or may be commingled in the MS4 prior to discharge to the receiving water subject to the TMDL. TMDLs address commingled MS4 discharges by assigning a WLA to a group of MS4 Permittees based on co-location within the same subwatershed. Permittees with co-mingled MS4 discharges are jointly responsible for meeting the water quality-based effluent limitations and receiving water limitations assigned to MS4 discharges in this Order. "Joint responsibility" means that the Permittees that have commingled MS4 discharges are responsible for implementing programs in their respective jurisdictions, or within the MS4 for which they are an owner and/or operator, to meet the water quality-based effluent limitations and/or receiving water limitations assigned to such commingled MS4 discharges.

In these cases, federal regulations state that co-permittees need only comply with permit conditions relating to discharges from the MS4 for which they are owners or operators (40 CFR § 122.26(a)(3)(vi)). Individual co-permittees are only responsible for their contributions to the commingled MS4 discharge. This Order does not require a Permittee to individually ensure that a commingled MS4 discharge meets the applicable water quality-based effluent limitations included in this Order, unless such Permittee is shown to be solely responsible for an exceedance.

Additionally, this Order allows a Permittee to clarify and distinguish their individual contributions and demonstrate that its MS4 discharge did not cause or contribute to exceedances of applicable water quality-based effluent limitations and/or receiving

water limitations. If such a demonstration is made, though the Permittee's discharge may commingle with that of other Permittees, the Permittee would not be held jointly responsible for the exceedance of the water quality-based effluent limitation or receiving water limitation. Individual co-permittees who demonstrate compliance with the water quality-based effluent limitations will not be held responsible for violations by non-compliant co-permittees.

Given the interconnected nature of the Permittees' MS4s, however, the Regional Water Board expects Permittees to work cooperatively to control the contribution of pollutants from one portion of the MS4 to another portion of the system through inter-agency agreements or other formal arrangements.

L. Ocean Plan. In 1972, the State Water Resources Control Board (State Water Board) adopted the Water Quality Control Plan for Ocean Waters of California, California Ocean Plan (hereinafter Ocean Plan). The State Water Board adopted the most recent amended Ocean Plan on September 15, 2009. The Office of Administration Law approved it on March 10, 2010. On October 8, 2010, USEPA approved the 2009 Ocean Plan. The Ocean Plan is applicable, in its entirety, to the ocean waters of the State. In order to protect beneficial uses, the Ocean Plan establishes water quality objectives and a program of implementation. Pursuant to California Water Code section 13263(a), the requirements of this Order implement the Ocean Plan. The Ocean Plan identifies beneficial uses of ocean waters of the State to be protected as summarized in the table below.

Table 7. Ocean Plan Beneficial Uses

Discharge Point	Receiving Water Name	Beneficial Uses
All Municipal Separate Storm Sewer Systems (MS4s) discharge points within Los Angeles County coastal watersheds with the exception of the City of Long Beach	Pacific Ocean	Industrial Water Supply (IND); Water Contact (REC-1) and Non-Contact Recreation (REC-2), including aesthetic enjoyment; Navigation (NAV); Commercial and Sport Fishing (COMM); Mariculture; Preservation and Enhancement of Designated Areas of Special Biological Significance (ASBS); Rare and Endangered Species (RARE); Marine Habitat (MAR); Fish Migration (MIGR); Fish Spawning (SPWN) and Shellfish Harvesting (SHELL)

M. Antidegradation Policy

40 CFR section 131.12 requires that state water quality standards include an antidegradation policy consistent with the federal antidegradation policy. The State Water Board established California's antidegradation policy in State Water Board Resolution No. 68-16 ("Statement of Policy with Respect to Maintaining the Quality of the Waters of the State"). Resolution No. 68-16 incorporates the federal antidegradation policy where the federal policy applies under federal law. Resolution No. 68-16 requires that existing water quality be maintained unless degradation is

justified based on specific findings. The Regional Water Board's Basin Plan implements, and incorporates by reference, both the state and federal antidegradation policies. The permitted discharge is consistent with the antidegradation provision of section 131.12 and State Water Board Resolution No. 68-16.

N. Anti-Backsliding Requirements. Section 402(o)(2) of the CWA and federal regulations at 40 CFR section 122.44(l) prohibit backsliding in NPDES permits. These anti-backsliding provisions require effluent limitations in a reissued permit to be as stringent as those in the previous permit, with some exceptions where limitations may be relaxed. All effluent limitations in this Order are at least as stringent as the effluent limitations in the previous permit.

O. Endangered Species Act. This Order does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code, §§ 2050 to 2115.5) or the Federal Endangered Species Act (16 U.S.C.A., §§ 1531 to 1544). This Order requires compliance with requirements to protect the beneficial uses of waters of the United States. Permittees are responsible for meeting all requirements of the applicable Endangered Species Act.

P. Monitoring and Reporting. Section 308(a) of the federal Clean Water Act, and 40 CFR sections 122.41(h), (j)-(l), 122.41(i), and 122.48, require that all NPDES permits specify monitoring and reporting requirements. Federal regulations applicable to large and medium MS4s also specify additional monitoring and reporting requirements. (40 C.F.R. §§ 122.26(d)(2)(i)(F) & (d)(2)(iii)(D), 122.42(c).) California Water Code section 13383 authorizes the Regional Water Board to establish monitoring, inspection, entry, reporting, and recordkeeping requirements. The Monitoring and Reporting Program establishes monitoring, reporting, and recordkeeping requirements that implement the federal and State laws and/or regulations. This Monitoring and Reporting Program is provided in Attachment E.

Q. Standard and Special Provisions. Standard Provisions, which apply to all NPDES permits in accordance with 40 CFR section 122.41, and additional conditions applicable to specified categories of permits in accordance with 40 CFR section 122.42, are provided in Attachment D. Dischargers must comply with all standard provisions and with those additional conditions that are applicable under 40 CFR section 122.42 provided in Attachment D. The Regional Water Board has also included in Part VI of this Order various special provisions applicable to the Dischargers. A rationale for the various special provisions contained in this Order is provided in the attached Fact Sheet (Attachment F).

R. State Mandates

Article XIII B, Section 6(a) of the California Constitution provides that whenever "any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service." The requirements of this Order do not constitute state mandates that are subject to a

subvention of funds for several reasons as described in detail in the attached Fact Sheet (Attachment F).

S. California Water Code Section 13241. The California Supreme Court has ruled that although California Water Code section 13263 requires the State and Regional Water Boards (collectively, Water Boards) to consider the factors set forth in California Water Code section 13241 when issuing an NPDES permit, the Water Boards may not consider the factors to justify imposing pollutant restriction that are less stringent than the applicable federal regulations require. (*City of Burbank v. State Water Resources Control Bd.* (2005) 35 Cal.4th 613, 618, 626-627). However, when the pollutant restrictions in an NPDES permit are more stringent than federal law requires, California Water Code section 13263 requires that the Water Boards consider the factors described in section 13241 as they apply to those specific restrictions. As noted in the preceding finding, the Regional Water Board finds that the requirements in this permit are not more stringent than the minimum federal requirements. Therefore, a 13241 analysis is not required for permit requirements that implement the effective prohibition on the discharge of non-storm water discharges into the MS4, or for controls to reduce the discharge of pollutants in storm water to the maximum extent practicable, or other provisions that the Regional Water Board has determined appropriate to control such pollutants, as those requirements are mandated by federal law. Notwithstanding the above, the Regional Water Board has developed an economic analysis of the permit's requirements, consistent with California Water Code section 13241. That analysis is provided in the Fact Sheet (Attachment F of this Order).

T. California Environmental Quality Act (CEQA). This action to adopt an NPDES Permit is exempt from the provisions of Chapter 3 of the California Environmental Quality Act (CEQA) (Public Resources Code, § 21100, et seq.) pursuant to California Water Code section 13389. (*County of Los Angeles v. Cal. Water Boards* (2006) 143 Cal.App.4th 985.)

U. Notification of Interested Parties. In accordance with State and federal laws and regulations, the Regional Water Board has notified the Permittees and interested agencies and persons of its intent to prescribe waste discharge requirements for the discharges authorized by this Order and has provided them with an opportunity to provide written and oral comments. Details of notification, as well as the meetings and workshops held on drafts of the permit, are provided in the Fact Sheet of this Order.

V. Consideration of Public Comment. The Regional Water Board, in a public meeting, heard and considered all oral and written comments pertaining to the discharges authorized by this Order and the requirements contained herein. The Regional Water Board has prepared written responses to all timely comments, which are incorporated by reference as part of this Order.

W. This Order serves as an NPDES permit pursuant to CWA section 402 or amendments thereto, and becomes effective fifty (50) days after the date of its adoption, provided that the Regional Administrator, USEPA, Region IX, expresses no objections.

X. This Order supersedes Order No. 01-182 as amended, except for enforcement purposes.

Y. Review by the State Water Board. Any person aggrieved by this action of the Regional Water Board may petition the State Water Board to review the action in accordance with California Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must *receive* the petition by 5:00 p.m., 30 days after the Regional Water Board action, except that if the thirtieth day following the action falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: http://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request.

THEREFORE, IT IS HEREBY ORDERED, that the Dischargers, in order to meet the provisions contained in Division 7 of the California Water Code (commencing with section 13000), and regulations, plans, and policies adopted thereunder, and the provisions of the Clean Water Act and regulations and guidelines adopted thereunder, shall comply with the following requirements:

III. DISCHARGE PROHIBITIONS

A. Prohibitions – Non-Storm Water Discharges

1. Prohibition of Non-Storm Water Discharges. Each Permittee shall, for the portion of the MS4 for which it is an owner or operator, prohibit non-storm water discharges through the MS4 to receiving waters except where such discharges are either:

a. Authorized non-storm water discharges separately regulated by an individual or general NPDES permit;

b. Temporary non-storm water discharges authorized by USEPA[3] pursuant to sections 104(a) or 104(b) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) that either: (i) will comply with water quality standards as applicable or relevant and appropriate requirements ("ARARs") under section 121(d)(2) of CERCLA; or (ii) are subject to either (a) a written waiver of ARARs by USEPA pursuant to section 121(d)(4) of CERCLA or (b) a written determination by USEPA that compliance with ARARs is not practicable considering the exigencies of the situation pursuant to 40 CFR. section 300.415(j);

c. Authorized non-storm water discharges from emergency fire fighting activities (i.e., flows necessary for the protection of life or property)[4];

d. Natural flows, including:

i. Natural springs;

[3] These typically include short-term, high volume discharges resulting from the development or redevelopment of groundwater extraction wells, or USEPA or State-required compliance testing of potable water treatment plants, as part of a USEPA authorized groundwater remediation action under CERCLA.

[4] Discharges from vehicle washing, building fire suppression system maintenance and testing (e.g., sprinkler line flushing), fire hydrant maintenance and testing, and other routine maintenance activities are not considered emergency fire fighting activities.

ii. Flows from riparian habitats and wetlands;

iii. Diverted stream flows, authorized by the State or Regional Water Board;

iv. Uncontaminated ground water infiltration[5];

v. Rising ground waters, where ground water seepage is not otherwise covered by a NPDES permit[6]; or

e. Conditionally exempt non-storm water discharges in accordance with Parts III.A.2 and III.A.3 below.

2. Conditional Exemptions from Non-Storm Water Discharge Prohibition. The following categories of non-storm water discharges are conditionally exempt from the non-storm water discharge prohibition, provided they meet all required conditions specified below, or as otherwise approved by the Regional Water Board Executive Officer, in all areas regulated by this Order with the exception of direct discharges to Areas of Special Biological Significance (ASBS) within Los Angeles County. Conditional exemptions from the prohibition on non-storm water discharges through the MS4 to an ASBS are identified in Part III.A.3 below.

a. Conditionally Exempt Essential Non-Storm Water Discharges: These consist of those discharges that fall within one of the categories below; meet all required best management practices (BMPs) as specified in i. and ii. below, including those enumerated in the referenced BMP manuals; are essential public services discharge activities; and are directly or indirectly required by other state or federal statute and/or regulation:

i. Discharges from essential *non-emergency* fire fighting activities[7] provided appropriate BMPs are implemented based on the CAL FIRE, Office of the State Fire Marshal's *Water-Based Fire Protection Systems Discharge Best Management Practices Manual* (September 2011) for water-based fire protection system discharges, and based on Riverside County's *Best Management Practices Plan for Urban Runoff Management* (May 1, 2004) or equivalent BMP manual for fire training activities and post-emergency fire fighting activities;

ii. Discharges from drinking water supplier distribution systems, where not otherwise regulated by an individual or general NPDES permit[8], provided

[5] Uncontaminated ground water infiltration is water other than waste water that enters the MS4 (including foundation drains) from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow. (See 40 CFR § 35.2005(20).)

[6] A NPDES permit for discharges associated with ground water dewatering is required within the Los Angeles Region.

[7] This includes fire fighting training activities, which simulate emergency responses, and routine maintenance and testing activities necessary for the protection of life and property, including building fire suppression system maintenance and testing (e.g. sprinkler line flushing) and fire hydrant testing and maintenance. Discharges from vehicle washing are not considered essential and as such are not conditionally exempt from the non-storm water discharge prohibition.

[8] Drinking water supplier distribution system releases means sources of flows from drinking water storage, supply and distribution systems (including flows from system failures), pressure releases, system maintenance, distribution line testing, and flushing and dewatering of pipes, reservoirs, and vaults, and minor non-invasive well maintenance activities not involving chemical addition(s) where not otherwise regulated by NPDES Permit No. CAG674001, NPDES Permit No. CAG994005, or another separate NPDES permit.

appropriate BMPs are implemented based on the American Water Works Association (California-Nevada Section) *Guidelines for the Development of Your Best Management Practices (BMP) Manual for Drinking Water System Releases* (2005) or equivalent industry standard BMP manual. Additionally, each Permittee shall work with drinking water suppliers that may discharge to the Permittee's MS4 to ensure for all discharges greater than 100,000 gallons: (1) notification at least 72 hours prior to a planned discharge and as soon as possible after an unplanned discharge; (2) monitoring of any pollutants of concern[9] in the drinking water supplier distribution system release; and (3) record keeping by the drinking water supplier. Permittees shall require that the following information is maintained by the drinking water supplier(s) for all discharges to the MS4 (planned and unplanned) greater than 100,000 gallons: name of discharger, date and time of notification (for planned discharges), method of notification, location of discharge, discharge pathway, receiving water, date of discharge, time of the beginning and end of the discharge, duration of the discharge, flow rate or velocity, total number of gallons discharged, type of dechlorination equipment used, type of dechlorination chemicals used, concentration of residual chlorine, type(s) of sediment controls used, pH of discharge, type(s) of volumetric and velocity controls used, and field and laboratory monitoring data. Records shall be retained for five years and made available upon request by the Permittee or Regional Water Board.

b. Those discharges that fall within one of the categories below, provided that the discharge itself is not a source of pollutants and meets all required conditions specified in Table 8 or as otherwise specified or approved by the Regional Water Board Executive Officer:

i. Dewatering of lakes[10];

ii. Landscape irrigation;

iii. Dechlorinated/debrominated swimming pool/spa discharges[11], where not otherwise regulated by a separate NPDES permit;

iv. Dewatering of decorative fountains[12];

v. Non-commercial car washing by residents or by non-profit organizations;

[9] Pollutants of concern from drinking water supplier distribution system releases may include trash and debris, including organic matter, total suspended solids (TSS), residual chlorine, pH, and any pollutant for which there is a water quality-based effluent limitation (WQBEL) in Part VI.E applicable to discharges from the MS4 to the receiving water. Determination of the pollutants of concern for a particular discharge shall be based on an evaluation of the potential for the constituent(s) to be present in the discharge at levels that may cause or contribute to exceedances of applicable WQBELs or receiving water limitations.

[10] Dewatering of lakes does not include dewatering of drinking water reservoirs. Dewatering of drinking water reservoirs is addressed in Part III.A.2.a.ii.

[11] Conditionally exempt dechlorinated/debrominated swimming pool/spa discharges do not include swimming pool/spa filter backwash or swimming pool/spa water containing bacteria, detergents, wastes, or algaecides, or any other chemicals including salts from pools commonly referred to as "salt water pools" in excess of applicable water quality objectives.

[12] Conditionally exempt discharges from dewatering of decorative fountains do not include fountain water containing bacteria, detergents, wastes, or algaecides, or any other chemicals in excess of applicable water quality objectives.

vi. Street/sidewalk wash water[13].

3. Conditional Exemptions from Non-Storm Water Discharge Prohibition within an ASBS. The following non-storm water discharges from the MS4 directly to an ASBS are conditionally exempt pursuant to the California Ocean Plan as specified below, provided that:

a. The discharges are essential for emergency response purposes, structural stability, slope stability or occur naturally, including the following discharges:

i. Discharges associated with emergency fire fighting activities (i.e., flows necessary for the protection of life or property)[14];

ii. Foundation and footing drains;

iii. Water from crawl space or basement pumps;

iv. Hillside dewatering;

v. Naturally occurring ground water seepage via a MS4; and

vi. Non-anthropogenic flows from a naturally occurring stream via a culvert or MS4, as long as there are no contributions of anthropogenic runoff.

b. The discharges fall within one of the conditionally exempt essential non-storm water discharge categories in Part III.A.2.a. above.

c. Conditionally exempt non-storm water discharges shall not cause or contribute[15] to an exceedance of applicable receiving water limitations and/or water quality-based effluent limitations in this Order or the water quality objectives in Chapter II of the Ocean Plan, or alter natural ocean water quality in an ASBS.

4. Permittee Requirements. Each Permittee shall:

a. Develop and implement procedures to ensure that a discharger, if not a named Permittee in this Order, fulfills the following for non-storm water discharges to the Permittee's MS4:

i. Notifies the Permittee of the planned discharge in advance, consistent with requirements in Table 8 or recommendations pursuant to the applicable BMP manual;

ii. Obtains any local permits required by the MS4 owner(s) and/or operator(s);

[13] Conditionally exempt non-storm water discharges of street/sidewalk wash water only include those discharges resulting from use of high pressure, low volume spray washing using only potable water with no cleaning agents at an average usage of 0.006 gallons per square feet of sidewalk area in accordance with Regional Water Board Resolution No. 98-08. Conditionally exempt non-storm water discharges of street/sidewalk wash water do not include hosing of any sidewalk or street with a garden hose with a pressure nozzle.
[14] See note 4.
[15] Based on the water quality characteristics of the conditionally exempt non-storm water discharge itself.

iii. Provides documentation that it has obtained any other necessary permits or water quality certifications[16] for the discharge;

iv. Conducts monitoring of the discharge, if required by the Permittee;

v. Implements BMPs and/or control measures as specified in Table 8 or in the applicable BMP manual(s) as a condition of the approval to discharge into the Permittee's MS4; and

vi. Maintains records of its discharge to the MS4, consistent with requirements in Table 8 or recommendations pursuant to the applicable BMP manual. For lake dewatering, Permittees shall require that the following information is maintained by the lake owner / operator: name of discharger, date and time of notification, method of notification, location of discharge, discharge pathway, receiving water, date of discharge, time of the beginning and end of the discharge, duration of the discharge, flow rate or velocity, total number of gallons discharged, type(s) of sediment controls used, pH of discharge, type(s) of volumetric and velocity controls used, and field and laboratory monitoring data. Records shall be made available upon request by the Permittee or Regional Water Board.

b. Develop and implement procedures that minimize the discharge of landscape irrigation water into the MS4 by promoting conservation programs.

i. Permittees shall coordinate with the local water purveyor(s), where applicable, to promote landscape water use efficiency requirements for existing landscaping, use of drought tolerant, native vegetation, and the use of less toxic options for pest control and landscape management.

ii. Permittees shall develop and implement a coordinated outreach and education program to minimize the discharge of irrigation water and pollutants associated with irrigation water consistent with Part VI.D.4.c of this Order (Public Information and Participation Program).

c. Evaluate monitoring data collected pursuant to the Monitoring and Reporting Program (MRP) of this Order (Attachment E), and any other associated data or information, and determine whether any of the authorized or conditionally exempt non-storm water discharges identified in Parts III.A.1, III.A.2, and III.A.3 above are a source of pollutants that may be causing or contributing to an exceedance of applicable receiving water limitations in Part V and/or water quality-based effluent limitations in Part VI.E. To evaluate monitoring data, the Permittee shall either use applicable interim or final water quality-based effluent limitations for the pollutant or, if there are no applicable interim or final water quality-based effluent limitations for the pollutant, use applicable action levels provided in Attachment G. Based on non-storm water outfall-based monitoring as implemented through the MRP, if monitoring data show

[16] Pursuant to the Federal Clean Water Act § 401.

exceedances of applicable water quality-based effluent limitations or action levels, the Permittee shall take further action to determine whether the discharge is causing or contributing to exceedances of receiving water limitations in Part V.

d. If the Permittee determines that any of the conditionally exempt non-storm water discharges identified in Part III.A.2.b above is a source of pollutants that causes or contributes to an exceedance of applicable receiving water limitations and/or water quality-based effluent limitations, the Permittee(s) shall report its findings to the Regional Water Board in its annual report. Based on this determination, the Permittee(s) shall also either:

i. Effectively prohibit[17] the non-storm water discharge to the MS4; or

ii. Impose conditions in addition to those in Table 8, subject to approval by the Regional Water Board Executive Officer, on the non-storm water discharge such that it will not be a source of pollutants; or

iii. Require diversion of the non-storm water discharge to the sanitary sewer; or

iv. Require treatment of the non-storm water discharge prior to discharge to the receiving water.

e. If the Permittee determines that any of the authorized or conditionally exempt essential non-storm water discharges identified in Parts III.A.1.a through III.A.1.c, III.A.2.a, or III.A.3 above is a source of pollutants that causes or contributes to an exceedance of applicable receiving water limitations and/or water quality-based effluent limitations, the Permittee shall notify the Regional Water Board within 30 days if the non-storm water discharge is an authorized discharge with coverage under a separate NPDES permit or authorized by USEPA under CERCLA in the manner provided in Part III.A.1.b above, or a conditionally exempt essential non-storm water discharge or emergency non-storm water discharge.

f. If the Permittee prohibits the discharge from the MS4, as per Part III.A.4.d.i, then the Permittee shall implement procedures developed under Part VI.D.9 (Illicit Connections and Illicit Discharges Elimination Program) in order to eliminate the discharge to the MS4.

5. If a Permittee demonstrates that the water quality characteristics of a specific authorized or conditionally exempt essential non-storm water discharge resulted in an exceedance of applicable receiving water limitations and/or water quality-based effluent limitations during a specific sampling event, the Permittee shall not be found in violation of applicable receiving water limitations and/or water quality-based effluent limitations for that specific sampling event. Such

[17] To "effectively prohibit" means to not allow the non-storm water discharge through the MS4 unless the discharger obtains coverage under a separate NPDES permit prior to discharge to the MS4.

demonstration must be based on source specific water quality monitoring data from the authorized or conditionally exempt essential non-storm water discharge or other relevant information documenting the characteristics of the specific non-storm water discharge as identified in Table 8.

6. Notwithstanding the above, the Regional Water Board Executive Officer, based on an evaluation of monitoring data and other relevant information for specific categories of non-storm water discharges, may modify a category or remove categories of conditionally exempt non-storm water discharges from Parts III.A.2 and III.A.3 above if the Executive Officer determines that a discharge category is a source of pollutants that causes or contributes to an exceedance of applicable receiving water limitations and/or water quality-based effluent limitations, or may require that a discharger obtain coverage under a separate individual or general State or Regional Water Board permit for a non-storm water discharge.

Table 8. Required Conditions for Conditionally Exempt Non-Storm Water Discharges

Discharge Category	General Conditions Under Which Discharge Through the MS4 is Allowed	Conditions/BMPs that are Required to be Implemented Prior to Discharge Through the MS4
All Discharge Categories	See discharge specific conditions below.	Ensure conditionally exempt non-storm water discharges avoid potential sources of pollutants in the flow path to prevent introduction of pollutants to the MS4 and receiving water. Whenever there is a discharge of 100,000 gallons or more into the MS4, Permittees shall require advance notification by the discharger to the potentially affected MS4 Permittees, including at a minimum the LACFCD, if applicable, and the Permittee with jurisdiction over the land area from which the discharge originates.
Dewatering of lakes	Discharge allowed only if all necessary permits/water quality certifications for dredge and fill activities, including water diversions, are obtained prior to discharge.	Ensure procedures for advanced notification by the lake owner / operator to the Permittee(s) no less than 72 hours prior to the planned discharge. Immediately prior to discharge, visible trash on the shoreline or on the surface of the lake shall be removed and disposed of in a legal manner. Immediately prior to discharge, the discharge pathway and the MS4 inlet to which the discharge is directed, shall be inspected and cleaned out. Discharges shall be volumetrically and velocity controlled to minimize resuspension of sediments. Measures shall be taken to stabilize lake bottom sediments. Ensure procedures for water quality monitoring for pollutants of concern[18] in the lake. Ensure record-keeping of lake dewatering by the lake owner / operator.

[18] Pollutants of concern include, at a minimum, trash and debris, including organic matter, TSS, and any pollutant for which there is a water quality-based effluent limitation in Part VI.E for the lake and/or receiving water.

Landscape irrigation using potable water	Discharge allowed if runoff due to potable landscape irrigation is minimized through the implementation of an ordinance specifying water efficient landscaping standards, as well as an outreach and education program focusing on water conservation and landscape water use efficiency.	Implement BMPs to minimize runoff and prevent introduction of pollutants to the MS4 and receiving water. Implement water conservation programs to minimize discharge by using less water.
Landscape irrigation using reclaimed or recycled water	Discharge of reclaimed or recycled water runoff from landscape irrigation is allowed if the discharge is in compliance with the producer and distributor operations and management (O&M) plan, and all relevant portions thereof, including the Irrigation Management Plan.	Discharges must comply with applicable O&M Plans, and all relevant portions thereof, including the Irrigation Management Plan.

Dechlorinated/ debrominated swimming pool/spa discharges	Discharges allowed after implementation of specified BMPs. Pool or spa water containing copper-based algaecides is not allowed to be discharged to the MS4. Discharges of cleaning waste water and filter backwash allowed only if authorized by a separate NPDES permit.	Implement BMPs and ensure discharge avoids potential sources of pollutants in the flow path to prevent introduction of pollutants prior to discharge to the MS4 and receiving water. Swimming pool water must be dechlorinated or debrominated using holding time, aeration, and/or sodium thiosulfate. Chlorine residual in the discharge shall not exceed 0.1 mg/L. Swimming pool water shall not contain any detergents, wastes, or algaecides, or any other chemicals including salts from pools commonly referred to as "salt water pools" in excess of applicable water quality objectives.[19] Swimming pool discharges are to be pH adjusted, if necessary, and be within the range of 6.5 and 8.5 standard units. Swimming pool discharges shall be volumetrically and velocity controlled to promote evaporation and/or infiltration. Ensure procedures for advanced notification by the pool owner to the Permittee(s) at least 72 hours prior to planned discharge for discharges of 100,000 gallons or more. For discharges of 100,000 gallons or more, immediately prior to discharge, the discharge pathway and the MS4 inlet to which the discharge is directed, shall be inspected and cleaned out.
Dewatering of decorative fountains	Discharges allowed after implementation of specified BMPs. Fountain water containing copper-based algaecides may not be discharged to the MS4. Fountain water containing dyes my not be discharged to the MS4.	Implement BMPs and ensure discharge avoids potential sources of pollutants in the flow path to prevent introduction of pollutants prior to discharge to the MS4 and receiving water. Fountain water must be dechlorinated or debrominated using holding time, aeration, and/or sodium thiosulfate. Chlorine residual in the discharge shall not exceed 0.1 mg/L. Fountain discharges are to be pH adjusted, if necessary, and be within the range of 6.5 and 8.5 standard units. Fountain discharges shall be volumetrically and velocity controlled to promote evaporation and/or infiltration. Ensure procedures for advanced notification by the fountain owner to the Permittee(s) at least 72 hours prior to planned discharge for discharges of 100,000 gallons or more. For discharges of 100,000 gallons or more, immediately prior to discharge, the discharge pathway and the MS4 inlet to which the discharge is directed, shall be inspected and cleaned out.
Non-commercial car washing by residents or by non-	Discharges allowed after implementation of specified BMPs.	Implement BMPs and ensure discharge avoids potential sources of pollutants in the flow path to prevent introduction of pollutants prior to discharge to the MS4 and receiving water. Minimize the amount of water used by employing water conservation practices such as turning off

[19] Applicable mineral water quality objectives for surface waters are contained in Chapter 3 of the Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties.

profit organizations		nozzles or kinking the hose when not spraying a car, and using a low volume pressure washer. Encourage use of biodegradable, phosphate free detergents and non-toxic cleaning products. Where possible, wash cars on a permeable surface where wash water can percolate into the ground (e.g. gravel or grassy areas). Empty buckets of soapy or rinse water into the sanitary sewer system (e.g., sinks or toilets).
Street/sidewalk wash water	Discharges allowed after implementation of specified BMPs.	Sweeping should be used as an alternate BMP whenever possible and sweepings should be disposed of in the trash. BMPs shall be in accordance with Regional Water Board Resolution No. 98-08 that requires: 1) removal of trash, debris, and free standing oil/grease spills/leaks (use absorbent material if necessary) from the area before washing and 2) use of high pressure, low volume spray washing using only potable water with no cleaning agents at an average usage of 0.006 gallons per square feet of sidewalk area. In areas of unsanitary conditions (e.g., areas where the congregation of transient populations can reasonably be expected to result in a significant threat to water quality), whenever practicable, Permittees shall collect and divert street and alley wash water from the Permittee's street and sidewalk cleaning public agency activities to the sanitary sewer.

IV. EFFLUENT LIMITATIONS AND DISCHARGE SPECIFICATIONS

A. Effluent Limitations

1. **Technology Based Effluent Limitations**: Each Permittee shall reduce pollutants in storm water discharges from the MS4 to the maximum extent practicable (MEP).

2. **Water Quality-Based Effluent Limitations (WQBELs).** This Order establishes WQBELs consistent with the assumptions and requirements of all available TMDL waste load allocations assigned to discharges from the Permittees' MS4s.

   a. Each Permittee shall comply with applicable WQBELs as set forth in Part VI.E of this Order, pursuant to applicable compliance schedules.

B. Land Discharge Specifications – Not Applicable

C. Reclamation Specifications – Not Applicable

V. RECEIVING WATER LIMITATIONS

A. Receiving Water Limitations

1. Discharges from the MS4 that cause or contribute to the violation of receiving water limitations are prohibited.

2. Discharges from the MS4 of storm water, or non-storm water, for which a Permittee is responsible[20], shall not cause or contribute to a condition of nuisance.

3. The Permittees shall comply with Parts V.A.1 and V.A.2 through timely implementation of control measures and other actions to reduce pollutants in the discharges in accordance with the storm water management program and its components and other requirements of this Order including any modifications. The storm water management program and its components shall be designed to achieve compliance with receiving water limitations. If exceedances of receiving water limitations persist, notwithstanding implementation of the storm water management program and its components and other requirements of this Order, the Permittee shall assure compliance with discharge prohibitions and receiving water limitations by complying with the following procedure:

   a. Upon a determination by either the Permittee or the Regional Water Board that discharges from the MS4 are causing or contributing to an exceedance of an applicable Receiving Water Limitation, the Permittee shall promptly notify and thereafter submit an Integrated Monitoring Compliance Report (as described in the Program Reporting Requirements, Part XVIII.A.5 of the Monitoring and Reporting Program) to the Regional Water Board for approval. The Integrated Monitoring Compliance shall describe the BMPs that are currently being

[20] Pursuant to 40 CFR § 122.26(a)(3)(vi), a Permittee is only responsible for discharges of storm water and non-storm water from the MS4 for which it is an owner or operator.

implemented by the Permittee and additional BMPs, including modifications to current BMPs that will be implemented to prevent or reduce any pollutants that are causing or contributing to the exceedances of receiving water limitations. The Integrated Monitoring Compliance Report shall include an implementation schedule. This Integrated Monitoring Compliance Report shall be incorporated in the annual Storm Water Report unless the Regional Water Board directs an earlier submittal. The Regional Water Board may require modifications to the Integrated Monitoring Compliance Report.

b. The Permittee shall submit any modifications to the Integrated Monitoring Compliance Report required by the Regional Water Board within 30 days of notification.

c. Within 30 days following the Regional Water Board Executive Officer's approval of the Integrated Monitoring Compliance Report, the Permittee shall revise the storm water management program and its components and monitoring program to incorporate the approved modified BMPs that have been and will be implemented, an implementation schedule, and any additional monitoring required.

d. The Permittee shall implement the revised storm water management program and its components and monitoring program according to the approved implementation schedule.

4. So long as the Permittee has complied with the procedures set forth in Part V.A.3. above and is implementing the revised storm water management program and its components, the Permittee does not have to repeat the same procedure for continuing or recurring exceedances of the same receiving water limitations unless directed by the Regional Water Board to modify current BMPs or develop additional BMPs.

B. Ground Water Limitations – Not Applicable

VI. PROVISIONS

A. Standard Provisions

1. Federal Standard Provisions. Each Permittee shall comply with all Standard Provisions included in Attachment D of this Order, in accordance with 40 CFR sections 122.41 and 122.42.

2. Legal Authority

a. Each Permittee must establish and maintain adequate legal authority, within its respective jurisdiction, 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 or enable the Permittee to:

i. Control the contribution of pollutants to its MS4 from storm water discharges associated with industrial and construction activity and control the quality of storm water discharged from industrial and construction sites. This requirement applies both to industrial and construction sites with coverage under an NPDES permit, as well as to those sites that do not have coverage under an NPDES permit.

ii. Prohibit all non-storm water discharges through the MS4 to receiving waters not otherwise authorized or conditionally exempt pursuant to Part III.A;

iii. Prohibit and eliminate illicit discharges and illicit connections to the MS4;

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

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

vi. Utilize enforcement mechanisms to require compliance with applicable ordinances, permits, contracts, or orders;

vii. Control the contribution of pollutants from one portion of the shared MS4 to another portion of the MS4 through interagency agreements among Co-permittees;

viii. 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 the State of California Department of Transportation;

ix. Carry out all inspections, surveillance, and monitoring procedures necessary to determine compliance and noncompliance with applicable municipal ordinances, permits, contracts and orders, and with the provisions of this Order, including the prohibition of non-storm water discharges into the MS4 and receiving waters. This means the Permittee must have authority to enter, monitor, inspect, take measurements, review and copy records, and require regular reports from entities discharging into its MS4;

x. Require the use of control measures to prevent or reduce the discharge of pollutants to achieve water quality standards/receiving water limitations;

xi. Require that structural BMPs are properly operated and maintained; and

xii. Require documentation on the operation and maintenance of structural BMPs and their effectiveness in reducing the discharge of pollutants to the MS4.

b. Each Permittee must submit a statement certified by its chief legal counsel that the Permittee has the legal authority within its jurisdiction to implement and enforce each of the requirements contained in 40 CFR § 122.26(d)(2)(i)(A-F) and this Order. Each Permittee shall submit this certification annually as part of its Annual Report beginning with the first Annual Report required under this Order. These statements must include:

i. Citation of applicable municipal ordinances or other appropriate legal authorities and their relationship to the requirements of 40 CFR § 122.26(d)(2)(i)(A)-(F) and of this Order; and

ii. Identification of the local administrative and legal procedures available to mandate compliance with applicable municipal ordinances identified in subsection (i) above and therefore with the conditions of this Order, and a statement as to whether enforcement actions can be completed administratively or whether they must be commenced and completed in the judicial system.

3. Fiscal Resources

a. Each Permittee shall conduct a fiscal analysis of the annual capital and operation and maintenance expenditures necessary to implement the requirements of this Order.

b. Each Permittee shall also enumerate and describe in its Annual Report the source(s) of funds used in the past year, and proposed for the coming year, to meet necessary expenditures on the Permittee's storm water management program.

4. Responsibilities of the Permittees

a. Each Permittee is required to comply with the requirements of this Order applicable to discharges within its boundaries. Permittees are not responsible for the implementation of the provisions applicable to other Permittees. Each Permittee shall:

i. Comply with the requirements of this Order and any modifications thereto.

ii. Coordinate among its internal departments and agencies, as necessary, to facilitate the implementation of the requirements of this Order applicable to such Permittees in an efficient and cost-effective manner.

iii. Participate in intra-agency coordination (e.g. Planning Department, Fire Department, Building and Safety, Code Enforcement, Public Health, Parks and Recreation, and others) and inter-agency coordination (e.g. co-Permittees, other NPDES permittees) necessary to successfully implement the provisions of this Order.

5. Public Review

a. All documents submitted to the Regional Water Board in compliance with the terms and conditions of this Order shall be made available to members of the public pursuant to the Freedom of Information Act (5 U.S.C. § 552 (as amended)) and the Public Records Act (Cal. Government Code § 6250 et seq.).

b. All documents submitted to the Regional Water Board Executive Officer for approval shall be made available to the public for a 30-day period to allow for public comment.

6. Regional Water Board Review

Any formal determination or approval made by the Regional Water Board Executive Officer pursuant to the provisions of this Order may be reviewed by the Regional Water Board. A Permittee(s) or a member of the public may request such review upon petition within 30 days of the effective date of the notification of such decision to the Permittee(s) and interested parties on file at the Regional Water Board.

7. Reopener and Modification

a. This Order may be modified, revoked, reissued, or terminated in accordance with the provisions of 40 CFR sections 122.44, 122.62, 122.63, 122.64, 124.5, 125.62, and 125.64. Causes for taking such actions include, but are not limited to:

i. Endangerment to human health or the environment resulting from the permitted activity, including information that the discharge(s) regulated by this Order may have the potential to cause or contribute to adverse impacts on water quality and/or beneficial uses;

ii. Acquisition of newly-obtained information that would have justified the application of different conditions if known at the time of Order adoption;

iii. To address changed conditions identified in required reports or other sources deemed significant by the Regional Water Board;

iv. To incorporate provisions as a result of future amendments to the Basin Plan, such as a new or revised water quality objective or the adoption or reconsideration of a TMDL, including the program of implementation. Within 18 months of the effective date of a revised TMDL or as soon as practicable thereafter, where the revisions warrant a change to the provisions of this Order, the Regional Water Board may modify this Order consistent with the assumptions and requirements of the revised WLA(s), including the program of implementation;

v. To incorporate provisions as a result of new or amended statewide water quality control plans or policies adopted by the State Water Board, or in consideration of any State Water Board action regarding the precedential language of State Water Board Order WQ 99-05;

vi. To incorporate provisions as a result of the promulgation of new or amended federal or state laws or regulations, USEPA guidance concerning regulated activities, or judicial decisions that becomes effective after adoption of this Order.

vii. To incorporate effluent limitations for toxic constituents determined to be present in significant amount in the discharge through a more comprehensive monitoring program included as part of this Order and based on the results of the reasonable potential analysis;

viii. In accordance with the provisions set forth in 40 CFR Parts 122 and 124, to include requirements for the implementation of the watershed management approach or to include new Minimum Levels (MLs); and/or

ix. To include provisions or modifications to WQBELs in Part VI.E and Attachments L-R in this Order prior to the final compliance deadlines, if practicable, that would allow an action-based, BMP compliance demonstration approach with regard to final WQBELs for storm water discharges. Such modifications shall be based on the Regional Water Board's evaluation of whether Watershed Management Programs in Part VI.C. have resulted in attainment of interim WQBELs for storm water and review of relevant research, including but not limited to data and information provided by Permittees and other stakeholders, on storm water quality and the efficacy and reliability of storm water control technologies. Provisions or modifications to WQBELs in Part VI.E. shall only be included in this Order where there is evidence that storm water control technologies can reliably achieve final WQBELs.

b. After notice and opportunity for a hearing, this Order may be terminated or modified for cause, including, but not limited to:

i. Violation of any term or condition contained in this Order;

ii. Obtaining this Order by misrepresentation, or failure to disclose all relevant facts; or

iii. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.

c. The filing of a request by a Permittee for a modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any condition of this Order.

d. This Order may be modified to make corrections or allowances for changes in the permitted activity, following the procedures at 40 CFR section 122.63, if processed as a minor modification. Minor modifications may only:

i. Correct typographical errors; or

ii. Require more frequent monitoring or reporting by a Permittee.

8. Any discharge of waste to any point(s) other than specifically described in this Order is prohibited, and constitutes a violation of this Order.

9. A copy of this Order shall be maintained by each Permittee so as to be available during normal business hours to Permittee employees responsible for implementation of the provisions of this Order and members of the public.

10. The discharge of any product registered under the Federal Insecticide, Fungicide, and Rodenticide Act to any waste stream that may ultimately be released to waters of the United States, is prohibited, unless specifically authorized elsewhere in this Order or another NPDES permit. This requirement is not applicable to products used for lawn and agricultural purposes.

11. Oil or oily material, chemicals, refuse, or other pollutionable materials shall not be stored or deposited in areas where they may be picked up by rainfall and carried off of the property and/or discharged to surface waters. Any such spill of such materials shall be contained and removed immediately.

12. If there is any storage of hazardous or toxic materials or hydrocarbons at a facility owned and/or operated by a Permittee and if the facility is not manned at all times, a 24-hour emergency response telephone number shall be prominently posted where it can easily be read from the outside.

13. Enforcement

a. Violation of any of the provisions of this Order may subject the violator to any of the penalties described herein or in Attachment D of this Order, or any combination thereof, at the discretion of the prosecuting authority; except that only one kind of penalty may be applied for each kind of violation.

b. Failure to comply with provisions or requirements of this Order, or violation of other applicable laws or regulations governing discharges through the MS4 to receiving waters, may subject a Permittee to administrative or civil liabilities, criminal penalties, and/or other enforcement remedies to ensure compliance. Additionally, certain violations may subject a Permittee to civil or criminal enforcement from appropriate local, state, or federal law enforcement entities.

c. The California Water Code provides that any person who violates a waste discharge requirement or a provision of the California Water Code is subject to civil penalties of up to $5,000 per day, $10,000 per day, or $25,000 per day of

violation, or when the violation involves the discharge of pollutants, is subject to civil penalties of up to $10 per gallon per day or $25 per gallon per day of violation; or some combination thereof, depending on the violation, or upon the combination of violations.

d. California Water Code section 13385(h)(1) requires the Regional Water Board to assess a mandatory minimum penalty of three-thousand dollars ($3,000) for each serious violation. Pursuant to California Water Code section 13385(h)(2), a "serious violation" is defined as any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for a Group II pollutant by 20 percent or more, or for a Group I pollutant by 40 percent or more. Appendix A of 40 CFR section 123.45 specifies the Group I and II pollutants. Pursuant to California Water Code section 13385.1(a)(1), a "serious violation" is also defined as "a failure to file a discharge monitoring report required pursuant to Section 13383 for each complete period of 30 days following the deadline for submitting the report, if the report is designed to ensure compliance with limitations contained in waste discharge requirements that contain effluent limitations."

e. California Water Code section 13385(i) requires the Regional Water Board to assess a mandatory minimum penalty of three-thousand dollars ($3,000) for each violation whenever a person violates a waste discharge requirement effluent limitation in any period of six consecutive months, except that the requirement to assess the mandatory minimum penalty shall not be applicable to the first three violations within that time period.

f. Pursuant to California Water Code section 13385.1(d), for the purposes of section 13385.1 and subdivisions (h), (i), and (j) of section 13385, "effluent limitation" means a numeric restriction or a numerically expressed narrative restriction, on the quantity, discharge rate, concentration, or toxicity units of a pollutant or pollutants that may be discharged from an authorized location. An effluent limitation may be final or interim, and may be expressed as a prohibition. An effluent limitation, for these purposes, does not include a receiving water limitation, a compliance schedule, or a best management practice.

g. Unlike subdivision (c) of California Water Code section 13385, where violations of effluent limitations may be assessed administrative civil liability on a per day basis, the mandatory minimum penalties provisions identified above require the Regional Water Board to assess mandatory minimum penalties for "each violation" of an effluent limitation. Some water quality-based effluent limitations in Attachments L through R of this Order (e.g., trash, as described immediately below) are expressed as annual effluent limitations. Therefore, for such limitations, there can be no more than one violation of each interim or final effluent limitation per year.

h. Trash TMDLs.

i. Consistent with the 2009 amendments to Order No. 01-182 to incorporate the Los Angeles River Trash TMDL, the water quality-based effluent limitations in Attachments L through R of this Order for trash are expressed as annual effluent limitations. Therefore, for such limitations, there can be no more than one violation of each interim or final effluent limitation per year. Trash is considered a Group I pollutant, as specified in Appendix A to 40 CFR section 123.45. Therefore, each annual violation of a trash effluent limitation in Attachments L through R of this Order by forty percent or more would be considered a "serious violation" under California Water Code section 13385(h). With respect to the final effluent limitation of zero trash, any detectable discharge of trash necessarily is a serious violation, in accordance with the State Water Board's Enforcement Policy. Violations of the effluent limitations in Attachments L through R of this Order would not constitute "chronic" violations that would give rise to mandatory liability under California Water Code section 13385(i) because four or more violations of the effluent limitations subject to a mandatory penalty cannot occur in a period of six consecutive months.

ii. For the purposes of enforcement under California Water Code section 13385, subdivisions (a), (b), and (c), not every storm event may result in trash discharges. In trash TMDLs adopted by the Regional Water Board, the Regional Water Board states that improperly deposited trash is mobilized during storm events of greater than 0.25 inches of precipitation. Therefore, violations of the effluent limitations are limited to the days of a storm event of greater than 0.25 inches. Once a Permittee has violated the annual effluent limitation, any subsequent discharges of trash during any day of a storm event of greater than 0.25 inches during the same storm year constitutes an additional "day in which the violation [of the effluent limitation] occurs".

14. This Order does not exempt any Permittee from compliance with any other laws, regulations, or ordinances that may be applicable.

15. The provisions of this Order are severable. If any provisions of this Order or the application of any provision 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.

B. Monitoring and Reporting Program (MRP) Requirements

Dischargers shall comply with the MRP and future revisions thereto, in Attachment E of this Order or may, in coordination with an approved Watershed Management Program per Part VI.C, implement a customized monitoring program that achieves the five Primary Objectives set forth in Part II.A. of Attachment E and includes the elements set forth in Part II.E. of Attachment E.

C. Watershed Management Programs

1. General

a. The purpose of this Part VI.C is to allow Permittees the flexibility to develop Watershed Management Programs to implement the requirements of this Order on a watershed scale through customized strategies, control measures, and BMPs.

b. Participation in a Watershed Management Program is voluntary and allows a Permittee to address the highest watershed priorities, including complying with the requirements of Part V.A. (Receiving Water Limitations), Part VI.E (Total Maximum Daily Load Provisions) and Attachments L through R, by customizing the control measures in Parts III.A.4 (Prohibitions – Non-Storm Water Discharges) and VI.D (Minimum Control Measures).

c. Customized strategies, control measures, and BMPs shall be implemented on a watershed basis, where applicable, through each Permittee's storm water management program and/or collectively by all participating Permittees through a Watershed Management Program.

d. The Watershed Management Programs shall ensure that discharges from the Permittee's MS4: (i) achieve applicable water quality-based effluent limitations in Part VI.E and Attachments L through R pursuant to the corresponding compliance schedules, (ii) do not cause or contribute to exceedances of receiving water limitations in Parts V.A and VI.E and Attachments L through R, and (iii) do not include non-storm water discharges that are effectively prohibited pursuant to Part III.A. The programs shall also ensure that controls are implemented to reduce the discharge of pollutants to the maximum extent practicable (MEP) pursuant to Part IV.A.1.

e. Watershed Management Programs shall be developed either collaboratively or individually using the Regional Water Board's Watershed Management Areas (WMAs). Where appropriate, WMAs may be separated into subwatersheds to focus water quality prioritization and implementation efforts by receiving water.

f. Each Watershed Management Program shall be consistent with Part VI.C.5-C.8 and shall:

i. Prioritize water quality issues resulting from storm water and non-storm water discharges from the MS4 to receiving waters within each WMA,

ii. Identify and implement strategies, control measures, and BMPs to achieve the outcomes specified in Part VI.C.1.d,

iii. Execute an integrated monitoring program and assessment program pursuant to Attachment E – MRP, Part IV to determine progress towards achieving applicable limitations and/or action levels in Attachment G, and

iv. Modify strategies, control measures, and BMPs as necessary based on analysis of monitoring data collected pursuant to the MRP to ensure that applicable water quality-based effluent limitations and receiving water limitations and other milestones set forth in the Watershed Management Program are achieved in the required timeframes.

v. Provide appropriate opportunity for meaningful stakeholder input, including but not limited to, a permit-wide watershed management program technical advisory committee (TAC) that will advise and participate in the development of the Watershed Management Programs and enhanced Watershed Management Programs from month 6 through the date of program approval. The composition of the TAC may include at least one Permittee representative from each Watershed Management Area for which a Watershed Management Program will be developed, and must include a minimum of one public representative from a non-governmental organization with public membership, and staff from the Regional Water Board and USEPA Region IX.

g. Permittees may elect to develop an enhanced Watershed Management Program (EWMP). An EWMP is one that comprehensively evaluates opportunities, within the participating Permittees' collective jurisdictional area in a Watershed Management Area, for collaboration among Permittees and other partners on multi-benefit regional projects that, wherever feasible, retain (i) all non-storm water runoff and (ii) all storm water runoff from the 85th percentile, 24-hour storm event for the drainage areas tributary to the projects, while also achieving other benefits including flood control and water supply, among others. In drainage areas within the EWMP area where retention of the 85th percentile, 24-hour storm event is not feasible, the EWMP shall include a Reasonable Assurance Analysis to demonstrate that applicable water quality based effluent limitations and receiving water limitations shall be achieved through implementation of other watershed control measures. An EWMP shall:

i. Be consistent with the provisions in Part VI.C.1.a.-f and VI.C.5-C.8;

ii. Incorporate applicable State agency input on priority setting and other key implementation issues;

iii. Provide for meeting water quality standards and other CWA obligations by utilizing provisions in the CWA and its implementing regulations, policies and guidance;

iv. Include multi-benefit regional projects to ensure that MS4 discharges achieve compliance with all final WQBELs set forth in Part VI.E. and do not cause or contribute to exceedances of receiving water limitations in Part V.A. by retaining through infiltration or capture and reuse the storm water volume from the 85th percentile, 24-hour storm for the drainage areas tributary to the multi-benefit regional projects.;

v. In drainage areas where retention of the storm water volume from the 85th percentile, 24-hour event is not technically feasible, include other watershed control measures to ensure that MS4 discharges achieve compliance with all interim and final WQBELs set forth in Part VI.E. with compliance deadlines occurring after approval of a EWMP and to ensure that MS4 discharges do not cause or contribute to exceedances of receiving water limitations in Part V.A.;

vi. Maximize the effectiveness of funds through analysis of alternatives and the selection and sequencing of actions needed to address human health and water quality related challenges and non-compliance;

vii. Incorporate effective innovative technologies, approaches and practices, including green infrastructure;

viii. Ensure that existing requirements to comply with technology-based effluent limitations and core requirements (e.g., including elimination of non-storm water discharges of pollutants through the MS4, and controls to reduce the discharge of pollutants in storm water to the maximum extent practicable) are not delayed;

ix. Ensure that a financial strategy is in place.

2. Compliance with Receiving Water Limitations Not Otherwise Addressed by a TMDL through a WMP or EWMP

a. For receiving water limitations in Part V.A. associated with water body-pollutant combinations not addressed through a TMDL, but which a Permittee elects to address through a Watershed Management Program or EWMP as set forth in this Part VI.C., a Permittee shall comply as follows:

i. For pollutants that are in the same class[21] as those addressed in a TMDL for the watershed and for which the water body is identified as impaired on the State's Clean Water Act Section 303(d) List as of the effective date of this Order:

(1) Permittees shall demonstrate that the Watershed Control Measures to achieve the applicable TMDL provisions identified pursuant to Part VI.C.5.b.iv.(3) will also adequately address contributions of the pollutant(s) within the same class from MS4 discharges to receiving waters, consistent with the assumptions and requirements of the corresponding TMDL provisions, including interim and final requirements and deadlines for their achievement, such that the MS4 discharges of the pollutant(s) will not cause or contribute to exceedances of receiving water limitations in Part V.A.

[21] Pollutants are considered in a similar class if they have similar fate and transport mechanisms, can be addressed via the same types of control measures, and within the same timeline already contemplated as part of the Watershed Management Program for the TMDL.

(2) Permittees shall include the water body-pollutant combination(s) in the Reasonable Assurance Analysis in Part VI.C.5.b.iv.(5).

(3) Permittees shall identify milestones and dates for their achievement consistent with those in the corresponding TMDL.

ii. For pollutants that are not in the same class as those addressed in a TMDL for the watershed, but for which the water body is identified as impaired on the State's Clean Water Act Section 303(d) List as of the effective date of this Order:

(1) Permittees shall assess contributions of the pollutant(s) from MS4 discharges to the receiving waters and sources of the pollutant(s) within the drainage area of the MS4 pursuant to Part VI.C.5.a.iii.
(2) Permittees shall identify Watershed Control Measures pursuant to Part VI.C.5.b. that will adequately address contributions of the pollutant(s) from MS4 discharges to receiving waters such that the MS4 discharges of the pollutant(s) will not cause or contribute to exceedances of receiving water limitations in Part V.A.
(3) Permittees shall include the water body-pollutant in the Reasonable Assurance Analysis in Part VI.C.5.b.iv.(5).
(4) Permittees shall identify enforceable requirements and milestones and dates for their achievement to control MS4 discharges such that they do not cause or contribute to exceedances of receiving water limitations within a timeframe(s) that is as short as possible, taking into account the technological, operation, and economic factors that affect the design, development, and implementation of the control measures that are necessary. The time between dates shall not exceed one year. Milestones shall relate to a specific water quality endpoint (e.g., x% of the MS4 drainage area is meeting the receiving water limitations) and dates shall relate either to taking a specific action or meeting a milestone.

(5) Where the final date(s) in (4) is beyond the term of this Order, the following conditions shall apply:

(a) For an EWMP, in drainage areas where retention of (i) all non-storm water runoff and (ii) all storm water runoff from the 85th percentile, 24-hour storm event will be achieved, each participating Permittee shall continue to target implementation of watershed control measures in its existing storm water management program, including watershed control measures to eliminate non-storm water discharges that are a source of pollutants to receiving waters.

(b) For a WMP and in areas of a EWMP where retention of the volume in (a) is technically infeasible and where the Regional Water Board determines that MS4 discharges cause or

contribute to the water quality impairment, participating Permittees may initiate development of a stakeholder-proposed TMDL upon approval of the Watershed Management Program or EWMP. For MS4 discharges from these drainage areas to the receiving waters, any extension of this compliance mechanism beyond the term of this Order shall be consistent with the implementation schedule in a TMDL for the waterbody pollutant combination(s) adopted by the Regional Water Board.

iii. For pollutants for which there are exceedances of receiving water limitations in Part V.A., but for which the water body is not identified as impaired on the State's Clean Water Act Section 303(d) List as of the effective date of this Order:

(1) Upon an exceedance of a receiving water limitation, based on data collected pursuant to the MRP and approved IMPs and CIMPs, Permittees shall assess contributions of the pollutant(s) from MS4 discharges to the receiving waters and sources of the pollutant(s) within the drainage area of the MS4 pursuant to Part VI.C.5.a.iii.

(2) If MS4 discharges are identified as a source of the pollutant(s) that has caused or contributed to, or has the potential to cause or contribute to, the exceedance(s) of receiving water limitations in Part V.A., Permittees shall address contributions of the pollutant(s) from MS4 discharges through modifications to the WMP or EWMP pursuant to Part VI.C.8.a.ii.

(a) In a modified WMP or EWMP, Permittees shall identify Watershed Control Measures pursuant to Part VI.C.5.b. that will adequately address contributions of the pollutant(s) from MS4 discharges to receiving waters such that the MS4 discharges of the pollutant(s) will not cause or contribute to exceedances of receiving water limitations in Part V.A.

(b) Permittees shall modify the Reasonable Assurance Analysis pursuant to Part VI.C.5.b.iv.(5) to address the pollutant(s).

(c) Permittees shall identify enforceable requirements and milestones and dates for their achievement to control MS4 discharges such that they do not cause or contribute to exceedances of receiving water limitations within a timeframe(s) that is as short as possible, taking into account the technological, operation, and economic factors that affect the design, development, and implementation of the control measures that are necessary. The time between dates shall not exceed one year. Milestones shall relate to a specific water quality endpoint (e.g., x% of the MS4 drainage area is meeting the receiving water limitations) and dates shall relate either to taking a specific action or meeting a milestone.

(d) Where the final date(s) in (4) is beyond the term of this Order, the following conditions shall apply:

(i) For an EWMP, in drainage areas where retention of (i) all non-storm water runoff and (ii) all storm water runoff from the 85th percentile, 24-hour storm event will be achieved, each participating Permittee shall continue to target implementation of watershed control measures in its existing storm water management program, including watershed control measures to eliminate non-storm water discharges that are a source of pollutants to receiving waters.

(ii) For a WMP and in areas of a EWMP where retention of the volume in (a) is technically infeasible, for newly identified exceedances of receiving water limitations, a Permittee may request that the Regional Water Board approve a modification to its WMP or EWMP to include these additional water body-pollutant combinations.

b. A Permittee's full compliance with all requirements and dates for their achievement in an approved Watershed Management Program or EWMP shall constitute a Permittee's compliance with the receiving water limitations provisions in Part V.A. of this Order for the specific water body-pollutant combinations addressed by an approved Watershed Management Program or EWMP.

c. If a Permittee fails to meet any requirement or date for its achievement in an approved Watershed Management Program or EWMP, the Permittee shall be subject to the provisions of Part V.A. for the waterbody-pollutant combination(s) that were to be addressed by the requirement.

d. Upon notification of a Permittee's intent to develop a WMP or EWMP and prior to approval of its WMP or EWMP, a Permittee's full compliance with all of the following requirements shall constitute a Permittee's compliance with the receiving water limitations provisions in Part V.A. not otherwise addressed by a TMDL, if all the following requirements are met:

i. Provides timely notice of its intent to develop a WMP or EWMP,

ii. Meets all interim and final deadlines for development of a WMP or EWMP,

iii. For the area to be covered by the WMP or EWMP, targets implementation of watershed control measures in its existing storm water management program, including watershed control measures to eliminate non-storm water discharges of pollutants through the MS4 to receiving waters, to address known contributions of

pollutants from MS4 discharges that cause or contribute to exceedances of receiving water limitations, and

iv. Receives final approval of its WMP or EWMP within 28 or 40 months, respectively.

3. Compliance with Receiving Water Limitations Addressed by a TMDL through a WMP or EWMP

a. A Permittee's full compliance with all requirements and dates for their achievement in an approved Watershed Management Program or EWMP shall constitute a Permittee's compliance with provisions pertaining to applicable interim water quality based effluent limitations and interim receiving water limitations in Part VI.E. and Attachments L-R for the pollutant(s) addressed by the approved Watershed Management Program or EWMP.

b. Upon notification of a Permittee's intent to develop a WMP or EWMP and prior to approval of its WMP or EWMP, a Permittee's full compliance with all of the following requirements shall constitute a Permittee's compliance with the receiving water limitations provisions in Part V.A., if all the following requirements are met:

i. Provides timely notice of its intent to develop a WMP or EWMP,

ii. Meets all interim and final deadlines for development of a WMP or EWMP,

iii. For the area to be covered by the WMP or EWMP, targets implementation of watershed control measures in its existing storm water management program, including watershed control measures to eliminate non-storm water discharges of pollutants through the MS4 to receiving waters, to address known contributions of pollutants from MS4 discharges that cause or contribute to exceedances of receiving water limitations, and

iv. Receives final approval of its WMP or EWMP within 28 or 40 months, respectively.

c. Subdivision b. does not apply to receiving water limitations corresponding to final compliance deadlines pursuant to TMDL provisions in Part VI.E. that have passed or will occur prior to approval of a WMP or EWMP.

4. Process

a. Timelines for Implementation

i. Implementation of the following requirements shall occur per the schedule specified in Table 9 below:

Table 9. Watershed Management Program Implementation Requirements

Part	Provision	Due Date
VI.C.4.b	Notify Regional Water Board of intent to develop Watershed Management Program or enhanced WMP and request submittal date for draft program plan	6 months after Order effective date
VI.C.4.c	For Permittee(s) that elect not to implement the conditions of Part VI.C.4.c.i or c.ii, submit draft plan to Regional Water Board	1 year after Order effective date
VI.C.4.c	For Permittee(s) that elect to implement the conditions of Part VI.C.4.c.i or c.ii, submit draft plan to Regional Water Board	18 months after Order effective date
VI.C.4.c.iv	For Permittees that elect to collaborate on an enhanced WMP that meets the requirements of Part VI.C.4.c.iv,submit draft plan to Regional Water Board	18 months after Order effective date, provide final work plan for development of enhanced WMP 30 months after Order effective date, submit draft plan
VI.C.4.c	Comments provided to Permittees by Regional Water Board	4 months after submittal of draft plan
VI.C.4.c	Submit final plan to Regional Water Board	3 months after receipt of Regional Water Board comments on draft plan
VI.C.4.c	Approval or denial of final plan by Regional Water Board or by the Executive Officer on behalf of the Regional Water Board	3 months after submittal of final plan
VI.C.6	Begin implementation of Watershed Management Program or EWMP	Upon approval of final plan
VI.C.8	Comprehensive evaluation of Watershed Management	Every two years from date of

	Program or EWMP and submittal of modifications to plan	approval

b. Permittees that elect to develop a Watershed Management Program or EWMP must notify the Regional Water Board no later than six months after the effective date of this Order.

i. Such notification shall specify if the Permittee(s) are requesting a 12-month or 18-month submittal date for the draft Watershed Management Program, per Part VI.C.4.c.i – ii, or if the Permittees are requesting a 18/30-month submittal date for the draft EWMP per Part VI.C.4.c.iv.

ii. As part of their notice of intent to develop a WMP or EWMP, Permittees shall identify all applicable interim and final trash WQBELs and all other final WQBELs and receiving water limitations pursuant to Part VI.E. and the applicable attachment(s) with compliance deadlines occurring prior to approval of a WMP or EWMP. Permittees shall identify watershed control measures, where possible from existing TMDL implementation plans, that will be implemented by participating Permittees concurrently with the development of a Watershed Management Program or EWMP to ensure that MS4 discharges achieve compliance with applicable interim and final trash WQBELs and all other final WQBELs and receiving water limitations set forth in Part VI.E. and the applicable attachment(s) by the applicable compliance deadlines occurring prior to approval of a WMP or EWMP.

iii. As part of their notification, Permittees electing to develop an EWMP shall submit all of the following in addition to the requirements of Part VI.C.4.b.i.-ii.:

(1) Plan concept and geographical scope,

(2) Cost estimate for plan development,

(3) Executed MOU/agreement among participating Permittees to fund plan development, or final draft MOU among participating Permittees along with a signed letter of intent from each participating City Manager or head of agency. If a final draft MOU is submitted, the MOU shall be fully executed by all participating Permittees within 12 months of the effective date of this Order.

(4) Interim milestones for plan development and deadlines for their achievement,

(5) Identification of, and commitment to fully implement, one structural BMP or a suite of BMPs at a scale that provides meaningful water quality improvement within each watershed covered by the plan within 30 months of the effective date of this Order in addition to

watershed control measures to be implemented pursuant to b.ii. above. The structural BMP or suite of BMPs shall be subject to approval by the Regional Water Board Executive Officer, and

(6) Demonstration that the requirements in Parts VI.C.4.c.iv.(1) and (2) have been met.

c. Permittees that elect to develop a Watershed Management Program shall submit a draft plan to the Regional Water Board as follows:

i. For Permittees that elect to collaborate on the development of a Watershed Management Program, Permittees shall submit the draft Watershed Management Program no later than 18 months after the effective date of this Order if the following conditions are met in greater than 50% of the land area covered by the WMP:

(1) Demonstrate that there are LID ordinances in place and/or commence development of a Low Impact Development (LID) ordinance(s) meeting the requirements of this Order's Planning and Land Development Program within 60 days of the effective date of the Order and have a draft ordinance within 6 months of the effective date of the Order, and

(2) Demonstrate that there are green streets policies in place and/or commence development of a policy(ies) that specifies the use of green street strategies for transportation corridors within 60 days of the effective date of the Order and have a draft policy within 6 months of the effective date of the Order.

(3) Demonstrate in the notification of the intent to develop a Watershed Management Program that Parts VI.C.4.c.i(1) and (2) have been met in greater than 50% of the watershed area.

ii. For a Permittee that elects to develop an individual Watershed Management Program, the Permittee shall submit the draft Watershed Management Program no later than 18 months after the effective date of this Order if the following conditions are met:

(1) Demonstrate that there is a LID ordinance in place for the Permittee's jurisdiction and/or commence development of a Low Impact Development (LID) ordinance for the Permittee's jurisdiction meeting the requirements of this Order's Planning and Land Development Program within 60 days of the effective date of the Order and have a draft ordinance within 6 months of the effective date of the Order, and

(2) Demonstrate that there is a green streets policy in place for the Permittee's jurisdiction and/or commence development of a policy

that specifies the use of green street strategies for transportation corridors within the Permittee's jurisdiction within 60 days of the effective date of the Order and have a draft policy within 6 months of the effective date of the Order.

(3) Demonstrate in the notification of the intent to develop a Watershed Management Program that Parts VI.C.4.c.ii.(1) and (2) have been met.

iii. For Permittees that elect not to implement the conditions under Part VI.C.4.c.i. or Part VI.C.4.c.ii., Permittees shall submit the draft Watershed Management Program no later than 12 months after the effective date of this Order.

iv. For Permittees that elect to collaborate on the development of an EWMP, Permittees shall submit the work plan for development of the EWMP no later than 18 months after the effective date of this Order, and shall submit the draft program no later than 30 months after the effective date of this Order if the following conditions are met in greater than 50% of the land area in the watershed:

(1) Demonstrate that there are LID ordinances in place and/or commence development of a Low Impact Development (LID) ordinance(s) meeting the requirements of this Order's Planning and Land Development Program within 60 days of the effective date of the Order and have a draft ordinance within 6 months of the effective date of the Order, and

(2) Demonstrate that there are green streets policies in place and/or commence development of a policy(ies) that specifies the use of green street strategies for transportation corridors within 60 days of the effective date of the Order and have a draft policy within 6 months of the effective date of the Order.

(3) Demonstrate in the notification of the intent to develop an EWMP that Parts VI.C.4.c.iv.(1) and (2) have been met in greater than 50% of the watershed area.

d. Until the Watershed Management Program or EWMP is approved by the Regional Water Board or by the Executive Officer on behalf of the Regional Water Board, Permittees that elect to develop a Watershed Management Program or EWMP shall:

i. Continue to implement watershed control measures in their existing storm water management programs, including actions within each of the six categories of minimum control measures consistent with 40 CFR section 122.26(d)(2)(iv),

ii. Continue to implement watershed control measures to eliminate non-storm water discharges through the MS4 that are a source of pollutants to receiving waters consistent with CWA section 402(p)(3)(B)(ii), and

iii. Implement watershed control measures, where possible from existing TMDL implementation plans, to ensure that MS4 discharges achieve compliance with interim and final trash WQBELs and all other final WQBELs and receiving water limitations pursuant to Part VI.E. and set forth in Attachments L through R by the applicable compliance deadlines occurring prior to approval of a WMP or EWMP.

e. Permittees that do not elect to develop a Watershed Management Program or EWMP, or that do not have an approved WMP or EWMP within 28 or 40 months, respectively, of the effective date of this Order, shall be subject to the baseline requirements in Part VI.D and shall demonstrate compliance with receiving water limitations pursuant to Part V.A. and with applicable interim water quality-based effluent limitations in Part VI.E pursuant to subparts VI.E.2.d.i.(1)-(3).

f. Permittees subject to the Middle Santa Ana River Watershed Bacteria Indicator TMDL shall submit a Comprehensive Bacteria Reduction Plan (CBRP) for dry weather to the Regional Water Board Executive Officer no later than nine months after the effective date of this Order. The CBRP shall describe, in detail, the specific actions that have been taken or will be taken to achieve compliance with the dry weather water quality-based effluent limitations and the receiving water limitations for the Middle Santa Ana River Watershed Bacteria Indicator TMDL by December 31, 2015. The CBRP shall also establish a schedule for developing a CBRP to comply with the water quality-based effluent limitations and the receiving water limitations for the Middle Santa Ana River Bacteria TMDL during wet weather by December 31, 2025. The CBRP may be developed in lieu of the Watershed Management Program for MS4 discharges of bacteria within the Middle Santa Ana River Watershed.

5. Program Development

a. Identification of Water Quality Priorities

Permittees shall identify the water quality priorities within each WMA that will be addressed by the Watershed Management Program. At a minimum, these priorities shall include achieving applicable water quality-based effluent limitations and/or receiving water limitations established pursuant to TMDLs, as set forth in Part VI.E and Attachments L through R of this Order.

i. Water Quality Characterization. Each plan shall include an evaluation of existing water quality conditions, including characterization of storm water and non-storm water discharges from the MS4 and receiving water quality,

to support identification and prioritization/sequencing of management actions.

ii. Water Body-Pollutant Classification. On the basis of the evaluation of existing water quality conditions, water body-pollutant combinations shall be classified into one of the following three categories:

(1) Category 1 (Highest Priority): Water body-pollutant combinations for which water quality-based effluent limitations and/or receiving water limitations are established in Part VI.E and Attachments L through R of this Order.

(2) Category 2 (High Priority): Pollutants for which data indicate water quality impairment in the receiving water according to the State's Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List (State Listing Policy) and for which MS4 discharges may be causing or contributing to the impairment.

(3) Category 3 (Medium Priority): Pollutants for which there are insufficient data to indicate water quality impairment in the receiving water according to the State's Listing Policy, but which exceed applicable receiving water limitations contained in this Order and for which MS4 discharges may be causing or contributing to the exceedance.

iii. Source Assessment. Utilizing existing information, potential sources within the watershed for the water body-pollutant combinations in Categories 1 - 3 shall be identified.

(1) Permittees shall identify known and suspected storm water and non-storm water pollutant sources in discharges to the MS4 and from the MS4 to receiving waters and any other stressors related to MS4 discharges causing or contributing to the water quality priorities. The identification of known and suspected sources of the highest water quality priorities shall consider the following:

(a) Review of available data, including but not limited to:

(i) Findings from the Permittees' Illicit Connections and Illicit Discharge Elimination Programs;

(ii) Findings from the Permittees' Industrial/Commercial Facilities Programs;

(iii) Findings from the Permittees' Development Construction Programs;

(iv) Findings from the Permittees' Public Agency Activities Programs;

(v) TMDL source investigations;

(vi) Watershed model results;

(vii) Findings from the Permittees' monitoring programs, including but not limited to TMDL compliance monitoring and receiving water monitoring; and

(viii) Any other pertinent data, information, or studies related to pollutant sources and conditions that contribute to the highest water quality priorities.

(b) Locations of the Permittees' MS4s, including, at a minimum, all MS4 major outfalls and major structural controls for storm water and non-storm water that discharge to receiving waters.

(c) Other known and suspected sources of pollutants in non-storm water or storm water discharges from the MS4 to receiving waters within the WMA.

iv. Prioritization. Based on the findings of the source assessment, the issues within each watershed shall be prioritized and sequenced. Watershed priorities shall include at a minimum:

(1) TMDLs

(a) Controlling pollutants for which there are water quality-based effluent limitations and/or receiving water limitations with interim or final compliance deadlines within the permit term, or TMDL compliance deadlines that have already passed and limitations have not been achieved.

(b) Controlling pollutants for which there are water quality-based effluent limitations and/or receiving water limitations with interim or final compliance deadlines between September 6, 2012 and October 25, 2017.

(2) Other Receiving Water Considerations

(a) Controlling pollutants for which data indicate impairment or exceedances of receiving water limitations in the receiving water and the findings from the source assessment implicates discharges from the MS4 shall be considered the second highest priority.

b. Selection of Watershed Control Measures

i. Permittees shall identify strategies, control measures, and BMPs to implement through their individual storm water management programs, and collectively on a watershed scale, with the goal of creating an efficient program to focus individual and collective resources on watershed priorities.

ii. The objectives of the Watershed Control Measures shall include:

(1) Prevent or eliminate non-storm water discharges to the MS4 that are a source of pollutants from the MS4 to receiving waters.

(2) Implement pollutant controls necessary to achieve all applicable interim and final water quality-based effluent limitations and/or receiving water limitations pursuant to corresponding compliance schedules.

(3) Ensure that discharges from the MS4 do not cause or contribute to exceedances of receiving water limitations.

iii. Watershed Control Measures may include:

(1) Structural and/or non-structural controls and operation and maintenance procedures that are designed to achieve applicable water quality-based effluent limitations, receiving water limitations in Part VI.E and/or Attachments L through R;

(2) Retrofitting areas of existing development known or suspected to contribute to the highest water quality priorities with regional or sub-regional controls or management measures; and

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

iv. The following provisions of this Order shall be incorporated as part of the Watershed Management Program:

(1) Minimum Control Measures.

(a) Permittees shall assess the minimum control measures (MCMs) as defined in Part VI.D.4 to Part VI.D.10 of this Order to identify opportunities for focusing resources on the high priority issues in each watershed. For each of the following minimum control measures, Permittees shall identify potential modifications that will address watershed priorities:

(i) Development Construction Program

(ii) Industrial/Commercial Facilities Program

(iii) Illicit Connection and Illicit Discharges Detection and Elimination Program

(iv) Public Agency Activities Program

(v) Public Information and Participation Program

(b) At a minimum, the Watershed Management Program shall include management programs consistent with 40 CFR section 122.26(d)(2)(iv)(A)-(D).

(c) If the Permittee(s) elects to eliminate a control measure identified in Parts VI.D.4, VI.D.5, VI.D.6 and VI.D.8 to VI.D.10 because that specific control measure is not applicable to the Permittee(s), the Permittee(s) shall provide a justification for its elimination. The Planning and Land Development Program is not eligible for elimination.

(d) Such customized actions, once approved as part of the Watershed Management Program, shall replace in part or in whole the requirements in Parts VI.D.4, VI.D.5, VI.D.6 and VI.D.8 to VI.D.10 for participating Permittees.

(2) Non-Storm Water Discharge Measures. Where Permittees identify non-storm water discharges from the MS4 as a source of pollutants that cause or contribute to exceedance of receiving water limitations, the Watershed Control Measures shall include strategies, control measures, and/or BMPs that must be implemented to effectively eliminate the source of pollutants consistent with Parts III.A and VI.D.10. These may include measures to prohibit the non-storm water discharge to the MS4, additional BMPs to reduce pollutants in the non-storm water discharge or conveyed by the non-storm water discharge, diversion to a sanitary sewer for treatment, or strategies to require the non-storm water discharge to be separately regulated under a general NPDES permit.

(3) TMDL Control Measures. Permittees shall compile control measures that have been identified in TMDLs and corresponding implementation plans. Permittees shall identify those control measures to be modified, if any, to most effectively address TMDL requirements within the watershed. If not sufficiently identified in previous documents, or if implementation plans have not yet been developed (e.g., USEPA established TMDLs), the Permittees shall evaluate and identify control measures to achieve water quality-based effluent limitations and/or

receiving water limitations established in this Order pursuant to these TMDLs.

(a) TMDL control measures shall include where necessary control measures to address both storm water and non-storm water discharges from the MS4.

(b) TMDL control measures may include baseline or customized activities covered under the general MCM categories in Part VI.D as well as BMPs and other control measures covered under the non-storm water discharge provisions of Part III.A of this Order.

(c) The WMP shall include, at a minimum, those actions that will be implemented during the permit term to achieve interim and/or final water quality-based effluent limitations and/or receiving water limitations with compliance deadlines within the permit term.

(4) Each plan shall include the following components:

(a) Identification of specific structural controls and non-structural best management practices, including operational source control and pollution prevention, and any other actions or programs to achieve all water quality-based effluent limitations and receiving water limitations contained in this Part VI.E and Attachments L through R to which the Permittee(s) is subject;

(b) For each structural control and non-structural best management practice, the number, type, and location(s) and/or frequency of implementation;

(c) For any pollution prevention measures, the nature, scope, and timing of implementation;

(d) For each structural control and non-structural best management practice, interim milestones and dates for achievement to ensure that TMDL compliance deadlines will be met; and

(e) The plan shall clearly identify the responsibilities of each participating Permittee for implementation of watershed control measures.

(5) Permittees shall conduct a Reasonable Assurance Analysis for each water body-pollutant combination addressed by the Watershed Management Program. A Reasonable Assurance Analysis (RAA) shall be quantitative and performed using a peer-reviewed model in the public domain. Models to be considered for the RAA, without exclusion, are the Watershed Management Modeling System (WMMS), Hydrologic Simulation Program-FORTRAN (HSPF), and the Structural BMP Prioritization and Analysis Tool (SBPAT). The RAA shall commence with assembly of all available, relevant subwatershed data collected within the last 10 years, including land use and pollutant

loading data, establishment of quality assurance/quality control (QA/QC) criteria, QA/QC checks of the data, and identification of the data set meeting the criteria for use in the analysis. Data on performance of watershed control measures needed as model input shall be drawn only from peer-reviewed sources. These data shall be statistically analyzed to determine the best estimate of performance and the confidence limits on that estimate for the pollutants to be evaluated. The objective of the RAA shall be to demonstrate the ability of Watershed Management Programs and EWMPs to ensure that Permittees' MS4 discharges achieve applicable water quality based effluent limitations and do not cause or contribute to exceedances of receiving water limitations.

(a) Permittees shall demonstrate using the RAA that the activities and control measures identified in the Watershed Control Measures will achieve applicable water quality-based effluent limitations and/or receiving water limitations in Attachments L through R with compliance deadlines during the permit term.

(b) Where the TMDL Provisions in Part VI.E and Attachments L through R do not include interim or final water quality-based effluent limitations and/or receiving water limitations with compliance deadlines during the permit term, Permittees shall identify interim milestones and dates for their achievement to ensure adequate progress toward achieving interim and final water quality-based effluent limitations and/or receiving water limitations with deadlines beyond the permit term.

(c) For water body-pollutant combinations not addressed by TMDLs, Permittees shall demonstrate using the RAA that the activities and control measures identified in the Watershed Control Measures will achieve applicable receiving water limitations as soon as possible.

(6) Permittees shall provide documentation that they have the necessary legal authority to implement the Watershed Control Measures identified in the plan, or that other legal authority exists to compel implementation of the Watershed Control Measures.

c. Compliance Schedules

Permittees shall incorporate compliance schedules in Attachments L through R into the plan and, where necessary develop interim milestones and dates for their achievement. Compliance schedules and interim milestones and dates for their achievement shall be used to measure progress towards addressing the highest water quality priorities and achieving applicable water quality-based effluent limitations and/or receiving water limitations.

i. Schedules must be adequate for measuring progress on a watershed scale once every two years.

ii. Schedules must be developed for both the strategies, control measures and BMPs implemented by each Permittee within its jurisdiction and for those that will be implemented by multiple Permittees on a watershed scale.

iii. Schedules shall incorporate the following:

(1) Compliance deadlines occurring within the permit term for all applicable interim and/or final water quality-based effluent limitations and/or receiving water limitations in Part VI.E and Attachments L through R of this Order,

(2) Interim milestones and dates for their achievement within the permit term for any applicable final water quality-based effluent limitation and/or receiving water limitation in Part VI.E and Attachments L through R, where deadlines within the permit term are not otherwise specified.

(3) For watershed priorities related to addressing exceedances of receiving water limitations in Part V.A and not otherwise addressed by Part VI.E:

(a) Milestones based on measureable criteria or indicators, to be achieved in the receiving waters and/or MS4 discharges,

(a) A schedule with dates for achieving the milestones, and

(b) A final date for achieving the receiving water limitations as soon as possible.

(c) The milestones and implementation schedule in (a)-(c) fulfill the requirements in Part V.A.3.a to prepare an Integrated Monitoring Compliance Report.

6. Watershed Management Program Implementation

Each Permittee shall begin implementing the Watershed Management Program or EWMP immediately upon approval of the plan by the Regional Water Board or the Executive Officer on behalf of the Regional Water Board.

a. Permittees may request an extension of deadlines for achievement of interim milestones established pursuant to Part VI.C.4.c.iii.(3) only. Permittees shall provide requests in writing at least 90 days prior to the deadline and shall include in the request the justification for the extension. Extensions shall be subject to approval by the Regional Water Board Executive Officer.

7. Integrated Watershed Monitoring and Assessment

Permittees in each WMA shall develop an integrated monitoring program as set forth in Part IV of the MRP (Attachment E) or implement a customized monitoring program with the primary objective of allowing for the customization of the outfall monitoring program (Parts VIII and IX) in conjunction with an approved Watershed Management Program or EWMP, as defined below. Each monitoring program shall assess progress toward achieving the water quality-based effluent limitations and/or receiving water limitations per the compliance schedules, and progress toward addressing the water quality priorities for each WMA. The customized monitoring program shall be submitted as part of the Watershed Management Program, or where Permittees elect to develop an EWMP, shall be submitted within 18 months of the effective date of this Order. If pursuing a customized monitoring program, the Permittee(s) shall provide sufficient justification for each element of the program that differs from the monitoring program requirements as set forth in Attachment E. Monitoring programs shall be subject to approval by the Executive Officer following a public comment period. The customized monitoring program shall be designed to address the Primary Objectives detailed in Attachment E, Part II.A and shall include the following program elements:

- Receiving Water Monitoring
- Storm Water Outfall Monitoring
- Non-Storm Water Outfall Monitoring
- New Development/Re-Development Effectiveness Tracking
- Regional Studies

8. Adaptive Management Process

a. Watershed Management Program Adaptive Management Process

i. Permittees in each WMA shall implement an adaptive management process, every two years from the date of program approval, adapting the Watershed Management Program or EWMP to become more effective, based on, but not limited to a consideration of the following:

(1) Progress toward achieving interim and/or final water quality-based effluent limitations and/or receiving water limitations in Part VI.E and Attachments L through R, according to established compliance schedules;

(2) Progress toward achieving improved water quality in MS4 discharges and achieving receiving water limitations through implementation of the watershed control measures based on an evaluation of outfall-based monitoring data and receiving water monitoring data;

(3) Achievement of interim milestones;

(4) Re-evaluation of the water quality priorities identified for the WMA based on more recent water quality data for discharges from the MS4 and the receiving water(s) and a reassessment of sources of pollutants in MS4 discharges;

(5) Availability of new information and data from sources other than the Permittees' monitoring program(s) within the WMA that informs the effectiveness of the actions implemented by the Permittees;

(6) Regional Water Board recommendations; and

(7) Recommendations for modifications to the Watershed Management Program solicited through a public participation process.

ii. Based on the results of the adaptive management process, Permittees shall report any modifications, including where appropriate new compliance deadlines and interim milestones, with the exception of those compliance deadlines established in a TMDL, necessary to improve the effectiveness of the Watershed Management Program or EWMP in the Annual Report, as required pursuant to Part XVIII.A.6 of the MRP (Attachment E), and as part of the Report of Waste Discharge (ROWD) required pursuant to Part II.B of Attachment D – Standard Provisions.

(1) The adaptive management process fulfills the requirements in Part V.A.4 to address continuing exceedances of receiving water limitations.

iii. Permittees shall implement any modifications to the Watershed Management Program or EWMP upon approval by the Regional Water Board Executive Officer or within 60 days of submittal if the Regional Water Board Executive Officer expresses no objections.

D. Storm Water Management Program Minimum Control Measures

1. General Requirements

a. Each Permittee shall implement the requirements in Parts VI.D.4 through VI.D.10 below, or may in lieu of the requirements in Parts VI.D.4 through VI.D.10 implement customized actions within each of these general categories of control measures as set forth in an approved Watershed Management Program per Part VI.C. Implementation shall be consistent with the requirements of 40 CFR § 122.26(d)(2)(iv).

b. Timelines for Implementation

i. Unless otherwise noted in Part VI.D, each Permittee that does not elect to develop a Watershed Management Program or EWMP per Part VI.C shall implement the requirements contained in Part VI.D within 6 months after the

effective date of this Order. In the interim, a Permittee shall continue to implement its existing storm water management program, including actions within each of the six categories of minimum control measures consistent with 40 CFR section 122.26(d)(2)(iv).

ii. Permittees that elect to develop a Watershed Management Program or EWMP shall continue to implement their existing storm water management programs, including actions within each of the six categories of minimum control measures consistent with 40 CFR section 122.26(d)(2)(iv) until the Watershed Management Program or EWMP is approved by the Regional Water Board Executive Officer.

2. Progressive Enforcement and Interagency Coordination

a. Each Permittee shall develop and implement a Progressive Enforcement Policy to ensure that (1) regulated Industrial/Commercial facilities, (2) construction sites, (3) development and redevelopment sites with post-construction controls, and (4) illicit discharges are each brought into compliance with all storm water and non-storm water requirements within a reasonable time period as specified below.

i. Follow-up Inspections

In the event that a Permittee determines, based on an inspection or illicit discharge investigation conducted, that a facility or site operator has failed to adequately implement all necessary BMPs, that Permittee shall take progressive enforcement actions which, at a minimum, shall include a follow-up inspection within 4 weeks from the date of the initial inspection and/or investigation.

ii. Enforcement Action

In the event that a Permittee determines that a facility or site operator has failed to adequately implement BMPs after a follow-up inspection, that Permittee shall take enforcement action as established through authority in its municipal code and ordinances, through the judicial system, or refer the case to the Regional Water Board, per the Interagency Coordination provisions below.

iii. Records Retention

Each Permittee shall maintain records, per their existing record retention policies, and make them available on request to the Regional Water Board, including inspection reports, warning letters, notices of violations, and other enforcement records, demonstrating a good faith effort to bring facilities into compliance.

iv. Referral of Violations of Municipal Ordinances and California Water Code § 13260

A Permittee may refer a violation(s) of its municipal storm water ordinances and/or California Water Code section 13260 by Industrial and Commercial facilities and construction site operators to the Regional Water Board

provided that the Permittee has made a good faith effort of applying its Progressive Enforcement Policy to achieve compliance with its own ordinances. At a minimum, a Permittee's good faith effort must be documented with:

(1) Two follow-up inspections, and

(2) Two warning letters or notices of violation.

v. Referral of Violations of the Industrial and Construction General Permits, including Requirements to File a Notice of Intent or No Exposure Certification

For those facilities or site operators in violation of municipal storm water ordinances and subject to the Industrial and/or Construction General Permits, Permittees may escalate referral of such violations to the Regional Water Board (promptly via telephone or electronically) after one inspection and one written notice of violation (copied to the Regional Water Board) to the facility or site operator regarding the violation. In making such referrals, Permittees shall include, at a minimum, the following documentation:

(1) Name of the facility or site,

(2) Operator of the facility or site,

(3) Owner of the facility or site,

(4) WDID Number (if applicable),

(5) Records of communication with the facility/site operator regarding the violation, which shall include at least one inspection report,

(6) The written notice of violation (copied to the Regional Water Board),

(7) For industrial sites, the industrial activity being conducted at the facility that is subject to the Industrial General Permit, and

(8) For construction sites, site acreage and Risk Factor rating.

b. Investigation of Complaints Transmitted by the Regional Water Board Staff

Each Permittee shall initiate, within one business day,[22] investigation of complaints from facilities within its jurisdiction. The initial investigation shall include, at a minimum, a limited inspection of the facility to confirm validity of the complaint and to determine if the facility is in compliance with municipal storm water ordinances and, if necessary, to oversee corrective action.

c. Assistance with Regional Water Board Enforcement Actions

As directed by the Regional Water Board Executive Officer, Permittees shall assist Regional Water Board enforcement actions by:

i. Assisting in identification of current owners, operators, and lessees of properties and sites.

[22] Permittees may comply with the Permit by taking initial steps (such as logging, prioritizing, and tasking) to "initiate" the investigation within that one business day. However, the Regional Water Board would expect that the initial investigation, including a site visit, to occur within four business days.

ii. Providing staff, when available, for joint inspections with Regional Water Board inspectors.

iii. Appearing to testify as witnesses in Regional Water Board enforcement hearings.

iv. Providing copies of inspection reports and documentation demonstrating application of its Progressive Enforcement Policy.

3. Modifications/Revisions

a. Each Permittee shall modify its storm water management programs, protocols, practices, and municipal codes to make them consistent with the requirements in this Order.

4. Requirements Applicable to the Los Angeles County Flood Control District

a. Public Information and Participation Program (PIPP)

i. General

(1) The LACFCD shall participate in a regional Public Information and Participation Program (PIPP) or alternatively, shall implement its own PIPP that includes the requirements listed in this part. The LACFCD shall collaborate, as necessary, with other Permittees to implement PIPP requirements. The objectives of the PIPP are as follows:

(a) To measurably increase the knowledge of the target audience about the MS4, the adverse impacts of storm water pollution on receiving waters and potential solutions to mitigate the impacts.

(b) To measurably change the waste disposal and storm water pollution generation behavior of target audiences by encouraging the implementation of appropriate alternatives by providing information to the public.

(c) To involve and engage a diversity of socio-economic groups and ethnic communities in Los Angeles County to participate in mitigating the impacts of stormwater pollution.

ii. PIPP Implementation

(1) The LACFCD shall implement the PIPP requirements listed in this Part VI.D.5 using one or more of the following approaches:

(a) By participating in a collaborative PIPP covering the entire service area of the Los Angeles County Flood Control District,

(b) By participating in one or more Watershed Group sponsored PIPPs, and/or

(c) Individually within the service area of the Los Angeles County Flood Control District.

(2) If the LACFCD participates in a collaborative District-wide or Watershed Group PIPP, the LACFCD shall provide the contact information for their appropriate staff responsible for storm water public education activities to the designated PIPP coordinator and contact information changes no later than 30 days after a change occurs.

iii. Public Participation

(1) The LACFCD, in collaboration with the County of Los Angeles, shall continue to maintain the countywide hotline (888-CLEAN-LA) for public reporting of clogged catch basin inlets and illicit discharges/dumping, faded or missing catch basin labels, and general storm water management information.

(a) The LACFCD shall include the reporting information, updated when necessary, in public information, and the government pages of the telephone book, as they are developed or published.

(b) The LACFCD, in collaboration with the County of Los Angeles, shall continue to maintain the www.888cleanla.com website.

iv. Residential Outreach Program

(1) Working in conjunction with a District-wide or Watershed Group sponsored PIPP or individually, the LACFCD shall implement the following activities:

(a) Conduct storm water pollution prevention public service announcements and advertising campaigns

(b) Facilitate the dissemination of public education materials including, at a minimum, information on the proper handling (i.e., disposal, storage and/or use) of:

(i) Vehicle waste fluids

(ii) Household waste materials (i.e., trash and household hazardous waste)

(iii) Construction waste materials

(iv) Pesticides and fertilizers (including integrated pest management practices [IPM] to promote reduced use of pesticides),

(v) Green waste (including lawn clippings and leaves)

(vi) Animal wastes

(c) Facilitate the dissemination of activity-specific storm water pollution prevention public education materials, at a minimum, for the following points of purchase:

(i) Automotive parts stores

(ii) Home improvement centers / lumber yards / hardware stores / paint stores

(iii) Landscaping / gardening centers

(iv) Pet shops / feed stores

(d) Maintain a storm water website, which shall include educational material and opportunities for the public to participate in storm water pollution prevention and clean-up activities listed in Part VI.D.5.

(e) When implementing activities in (a)-(d), the LACFCD shall use effective strategies to educate and involve ethnic communities in storm water pollution prevention through culturally effective methods.

b. Industrial/Commercial Facilities Program

If the LACFCD operates, or has authority over, any facility(ies) identified in Part VI.D.6.b, LACFCD shall comply with the requirements in Part VI.D.6 for those facilities.

c. Public Agency Activities Program

i. General

(1) The LACFCD shall implement a Public Agency Activities Program to minimize storm water pollution impacts from LACFCD-owned or operated facilities and activities. Requirements for Public Agency Facilities and Activities consist of the following components:

(a) Public Construction Activities Management.

(b) Public Facility Inventory

(c) Public Facility and Activity Management

(d) Vehicle and Equipment Washing

(e) Landscape and Recreational Facilities Management

(f) Storm Drain Operation and Maintenance

(g) Parking Facilities Management

(h) Emergency Procedures

(i) Employee and Contractor Training

ii. Public Construction Activities Management

(1) The LACFCD shall implement and comply with the Planning and Land Development Program requirements in Part VI.D.7 of this Order at LACFCD-owned or operated public construction projects that are categorized under the project types identified in Part VI.D.7 of this Order.

(2) The LACFCD shall implement and comply with the appropriate Development Construction Program requirements in Part VI.D.8 of this Order at LACFCD-owned or operated construction projects as applicable.

(3) For LACFCD-owned or operated projects that disturb less than one acre of soil, the LACFCD shall require the implementation of an effective combination of erosion and sediment control BMPs from Table 13 (see Construction Development Program).

(4) The LACFCD shall obtain separate coverage under the Construction General Permit for all LACFCD-owned or operated construction sites that require coverage.

iii. Public Facility Inventory

(1) The LACFCD shall maintain an updated watershed-based inventory and map of all LACFCD-owned or operated facilities that are potential sources of storm water pollution. The incorporation of facility information into a GIS is recommended. Sources to be tracked include but are not limited to the following:

(a) Chemical storage facilities

(b) Equipment storage and maintenance facilities (including landscape maintenance-related operations)

(c) Fueling or fuel storage facilities

(d) Materials storage yards

(e) Pesticide storage facilities

(f) LACFCD buildings

(g) LACFCD vehicle storage and maintenance yards

(h) All other LACFCD-owned or operated facilities or activities that the LACFCD determines may contribute a substantial pollutant load to the MS4.

(2) The LACFCD shall include the following minimum fields of information for each LACFCD-owned or operated facility in its watershed-based inventory and map.

(a) Name of facility

(b) Name of facility manager and contact information

(c) Address of facility (physical and mailing)

(d) A narrative description of activities performed and principal products used at each facility and status of exposure to storm water.

(e) Coverage under the Industrial General Permit or other individual or general NPDES permits or any applicable waiver issued by the Regional or State Water Board pertaining to storm water discharges.

(3) The LACFCD shall update its inventory and map once during the Permit term. The update shall be accomplished through a collection of new information obtained through field activities.

iv. Public Agency Facility and Activity Management

(1) The LACFCD shall obtain separate coverage under the Industrial General Permit for all LACFCD-owned or operated facilities where industrial activities are conducted that require coverage under the Industrial General Permit.

(2) The LACFCD shall implement the following measures for flood management projects:

(a) Develop procedures to assess the impacts of flood management projects on the water quality of receiving waterbodies; and

(b) Evaluate existing structural flood control facilities during the planning phases of major maintenance or rehabilitation projects to determine if retrofitting the facility to provide additional pollutant removal from storm water is feasible.

(3) The LACFCD shall implement and maintain the general and activity-specific BMPs listed in Table 18 (BMPs for Public Agency Facilities and Activities) or an equivalent set of BMPs when such activities occur at LACFCD-owned or operated facilities and field activities (e.g., project sites) including but not limited to the facility types listed in Part VI.D.9.c above, and at any area that includes the activities described in Table 18, or that have the potential to discharge pollutants in storm water.

(4) Any contractors hired by the LACFCD to conduct Public Agency Activities shall be contractually required to implement and maintain the general and activity specific BMPs listed in Table 18 or an equivalent set of BMPs. The LACFCD shall conduct oversight of contractor activities to ensure these BMPs are implemented and maintained.

(5) Effective source control BMPs for the activities listed in Table 18 shall be implemented at LACFCD-owned or operated facilities, unless the pollutant generating activity does not occur. The LACFCD shall require implementation of additional BMPs where storm water from the MS4 discharges to a significant ecological area (SEA, see Attachment A for definition), a water body subject to TMDL Provisions in Part VI.E, or a CWA section 303(d) listed water body (see Part VI.E below). Likewise, for those BMPs that are not adequately protective of water quality standards, the LACFCD shall implement additional site-specific controls.

v. Vehicle and Equipment Washing

(1) The LACFCD shall implement and maintain the activity specific BMPs listed in Table 18 (BMPs for Public Agency Facilities and Activities) or an equivalent set of BMPs for all fixed vehicle and equipment washing areas;

(2) The LACFCD shall prevent discharges of wash waters from vehicle and equipment washing to the MS4 by implementing any of the following measures at existing facilities with vehicle or equipment wash areas:

(a) Self-contain, and haul off for disposal; or

(b) Equip with a clarifier or an alternative pre-treatment device and plumb to the sanitary sewer in accordance with applicable waste water provider regulations

(3) The LACFCD shall ensure that any LACFCD facilities constructed, redeveloped, or replaced shall not discharge wastewater from vehicle and equipment wash areas to the MS4 by plumbing all areas to the sanitary sewer in accordance with applicable waste water provider regulations, or self-containing all waste water/ wash water and hauling to a point of legal disposal.

vi. Landscape and Recreational Facilities Management

(1) The LACFCD shall implement and maintain the activity specific BMPs listed in Table 18 (BMPs for Public Agency Facilities and Activities) or an equivalent set of BMPs for all its public right-of-ways, flood control facilities and open channels and reservoirs, and landscape and recreational facilities and activities.

(2) The LACFCD shall implement an IPM program that includes the following:

(a) Pesticides are used only if monitoring indicates they are needed, and pesticides are applied according to applicable permits and established guidelines.

(b) Treatments are made with the goal of removing only the target organism.

(c) Pest controls are selected and applied in a manner that minimizes risks to human health, beneficial non-target organisms, and the environment.

(d) The use of pesticides, including Organophosphates and Pyrethroids, does not threaten water quality.

(e) Partner, as appropriate, with other agencies and organizations to encourage the use of IPM.

(f) Adopt and verifiably implement policies, procedures, and/ or ordinances requiring the minimization of pesticide use and encouraging the use of IPM techniques (including beneficial insects) for Public Agency Facilities and Activities.

(g) Policies, procedures, and ordinances shall include a schedule to reduce the use of pesticides that cause impairment of surface waters by implementing the following procedures:

(i) Prepare and annually update an inventory of pesticides used by all internal departments, divisions, and other operational units.

(ii) Quantify pesticide use by staff and hired contractors.

(iii) Demonstrate implementation of IPM alternatives where feasible to reduce pesticide use.

(3) The LACFCD shall implement the following requirements:

(a) Use a standardized protocol for the routine and non-routine application of pesticides (including pre-emergents), and fertilizers.

(b) Ensure there is no application of pesticides or fertilizers (1) when two or more consecutive days with greater than 50% chance of rainfall are predicted by NOAA, (2) within 48 hours of a ½-inch rain event, or (3) when water is flowing off the area where the application is to occur. This requirement does not apply to the application of aquatic pesticides or pesticides which require water for activation.

(c) Ensure that no banned or unregistered pesticides are stored or applied.

(d) Ensure that all staff applying pesticides are certified in the appropriate category by the California Department of Pesticide Regulation, or are under the direct supervision of a pesticide applicator certified in the appropriate category.

(e) Implement procedures to encourage the retention and planting of native vegetation to reduce water, pesticide and fertilizer needs; and

(f) Store pesticides and fertilizers indoors or under cover on paved surfaces, or use secondary containment.

(i) Reduce the use, storage, and handling of hazardous materials to reduce the potential for spills.

(ii) Regularly inspect storage areas.

vii. Storm Drain Operation and Management

(1) The LACFCD shall implement and maintain the activity specific BMPs listed in Table 18 or equivalent set of BMPs for storm drain operation and maintenance.

(2) Ensure that all the material removed from the MS4 does not reenter the system. Solid material shall be dewatered in a contained area and liquid material shall be disposed in accordance with any of the following measures:

(a) Self-contain, and haul off for legal disposal; or

(b) Equip with a clarifier or an alternative pre-treatment device; and plumb to the sanitary sewer in accordance with applicable waste water provider regulations.

(3) Catch Basin Cleaning

(a) In areas that are not subject to a trash TMDL, the LACFCD shall determine priority areas and shall update its map or list of catch basins with their GPS coordinates and priority:

Priority A: Catch basins that are designated as consistently generating the highest volumes of trash and/or debris.

Priority B: Catch basins that are designated as consistently generating moderate volumes of trash and/or debris.

Priority C: Catch basins that are designated as generating low volumes of trash and/or debris.

The map or list shall contain the rationale or data to support priority designations.

(b) In areas not subject to a trash TMDL, the LACFCD shall inspect its catch basins according to the following schedule:

Priority A: A minimum of 3 times during the wet season (October 1 through April 15) and once during the dry season every year.

Priority B: A minimum of once during the wet season and once during the dry season every year.

Priority C: A minimum of once per year.

Catch basins shall be cleaned as necessary on the basis of inspections. At a minimum, LACFCD shall ensure that any catch basin that is determined to be at least 25% full of trash shall be cleaned out. LACFCD shall maintain inspection and cleaning records for Regional Water Board review.

(c) In areas that are subject to a trash TMDL, the subject Permittees shall implement the applicable provisions in Part VI.E.

(4) Catch Basin Labels and Open Channel Signage

(a) LACFCD shall label all catch basin inlets that they own with a legible “no dumping” message.

(b) The LACFCD shall inspect the legibility of the catch basin stencil or label nearest the inlet prior to the wet season every year.

(c) The LACFCD shall record all catch basins with illegible stencils and re-stencil or re-label within 180 days of inspection.

(d) The LACFCD shall post signs, referencing local code(s) that prohibit littering and illegal dumping, at designated public access points to open channels, creeks, urban lakes, and other relevant waterbodies.

(5) Open Channel Maintenance

The LACFCD shall implement a program for Open Channel Maintenance that includes the following:

(a) Visual monitoring of LACFCD owned open channels and other drainage structures for trash and debris at least annually;

(b) Removal of trash and debris from open channels a minimum of once per year before the wet season;

(c) Elimination of the discharge of contaminants produced by storm drain maintenance and clean outs; and

(d) Proper disposal of debris and trash removed during open channel maintenance.

(6) Infiltration from Sanitary Sewer to MS4/Preventive Maintenance

(a) The LACFCD shall implement controls and measures to prevent and eliminate infiltration of seepage from sanitary sewers to its MS4 thorough routine preventive maintenance of its MS4.

(b) The LACFCD shall implement controls to limit infiltration of seepage from sanitary sewers to its MS4 where necessary. Such controls must include:

(i) Adequate plan checking for construction and new development;

(ii) Incident response training for its employees that identify sanitary sewer spills;

(iii) Code enforcement inspections;

(iv) MS4 maintenance and inspections;

(v) Interagency coordination with sewer agencies; and

(vi) Proper education of its staff and contractors conducting field operations on its MS4.

(7) LACFCD-Owned Treatment Control BMPs

(a) The LACFCD shall implement an inspection and maintenance program for all LACFCD-owned treatment control BMPs, including post-construction treatment control BMPs.

(b) The LACFCD shall ensure proper operation of all its treatment control BMPs and maintain them as necessary for proper operation, including all post-construction treatment control BMPs.

(c) Any residual water produced by a treatment control BMP and not being internal to the BMP performance when being maintained shall be:

(i) Hauled away and legally disposed of; or

(ii) Applied to the land without runoff; or

(iii) Discharged to the sanitary sewer system (with permits or authorization); or

(iv) Treated or filtered to remove bacteria, sediments, nutrients, and meet the limitations set in Table 19 (Discharge Limitations for Dewatering Treatment BMPs), prior to discharge to the MS4.

viii. Parking Facilities Management

LACFCD-owned parking lots exposed to storm water shall be kept clear of debris and excessive oil buildup and cleaned no less than 2 times per month and/or inspected no less than 2 times per month to determine if cleaning is necessary. In no case shall a LACFCD-owned parking lot be cleaned less than once a month.

ix. Emergency Procedures

The LACFCD may conduct repairs and rehabilitation of essential public service systems and infrastructure in emergency situations with a self-waiver of the provisions of this Order as follows:

(1) The LACFCD shall abide by all other regulatory requirements, including notification to other agencies as appropriate.

(2) Where the self-waiver has been invoked, the LACFCD shall notify the Regional Water Board Executive Officer of the occurrence of the emergency no later than 30 business days after the situation of emergency has passed.

(3) Minor repairs of essential public service systems and infrastructure in emergency situations (that can be completed in less than one week) are not subject to the notification provisions. Appropriate BMPs to reduce the threat to water quality shall be implemented.

x. Employee and Contractor Training

(1) The LACFCD shall, no later than one year after Order adoption and annually thereafter before June 30, train all of their employees and contractors in targeted positions (whose interactions, jobs, and activities affect storm water quality) on the requirements of the overall storm water management program to:

(a) Promote a clear understanding of the potential for activities to pollute storm water.

(b) Identify opportunities to require, implement, and maintain appropriate BMPs in their line of work.

(2) The LACFCD shall, no later than one year after Order adoption and annually thereafter before June 30, train all of their employees and contractors who use or have the potential to use pesticides or fertilizers (whether or not they normally apply these as part of their work). Outside contractors can self-certify, providing they certify they have received all applicable training required in the Order and have documentation to that effect. Training programs shall address:

(a) The potential for pesticide-related surface water toxicity.

(b) Proper use, handling, and disposal of pesticides.

(c) Least toxic methods of pest prevention and control, including IPM.

(d) Reduction of pesticide use.

(3) The LACFCD shall require appropriate training of contractor employees in targeted positions as described above.

d. Illicit Connections and Illicit Discharge Elimination Program

i. General

(1) The LACFCD shall continue to implement an Illicit Connection and Illicit Discharge (IC/ID) Program to detect, investigate, and eliminate IC/IDs to its MS4. The IC/ID Program must be implemented in accordance with the requirements and performance measures specified in the following subsections.

(2) As stated in Part VI.A.2 of this Order, each Permittee must have adequate legal authority to prohibit IC/IDs to the MS4 and enable enforcement capabilities to eliminate the source of IC/IDs.

(3) The LACFCD's IC/ID Program shall consist of at least the following major program components:

(a) An up-to-date map of LACFCD's MS4

(b) Procedures for conducting source investigations for IC/IDs

(c) Procedures for eliminating the source of IC/IDs

(d) Procedures for public reporting of illicit discharges

(e) Spill response plan

(f) IC/IDs education and training for LACFCD staff

ii. MS4 Mapping

(1) The LACFCD shall maintain an up-to-date and accurate electronic map of its MS4. If possible, the map should be maintained within a GIS. The map must show the following, at a minimum:

(a) Within one year of Permit adoption, the location of outfalls owned and maintained by the LACFCD. Each outfall shall be given an alphanumeric identifier, which must be noted on the map. Each mapped outfall shall be located using a geographic positioning system (GPS). Photographs of the major outfalls shall be taken to provide baseline information to track operation and maintenance needs over time.

(b) The location and length of open channels and underground storm drain pipes with a diameter of 36 inches or greater that are owned and operated by the LACFCD.

(c) The location and name of all waterbodies receiving discharges from those MS4 major outfalls identified in (a).

(d) All LACFCD's dry weather diversions installed within the MS4 to direct flows from the MS4 to the sanitary sewer system, including the owner and operator of each diversion.

(e) By the end of the Permit term, map all known permitted and documented connections to its MS4 system.

(2) The MS4 map shall be updated as necessary.

iii. Illicit Discharge Source Investigation and Elimination

(1) The LACFCD shall develop written procedures for conducting investigations to prioritize and identify the source of all illicit discharges to its MS4, including procedures to eliminate the discharge once the source is located.

(2) At a minimum, the LACFCD shall initiate[23] an investigation(s) to identify and locate the source within one business day of becoming aware of the illicit discharge.

(3) When conducting investigations, the LACFCD shall comply with the following:

(a) Illicit discharges suspected of being sanitary sewage and/or significantly contaminated shall be investigated first.

(b) The LACFCD shall track all investigations to document, at a minimum, the date(s) the illicit discharge was observed; the results

[23] Permittees may comply with the Permit by taking initial steps (such as logging, prioritizing, and tasking) to "initiate" the investigation within one business day. However, the Regional Water Board would expect that the initial investigation, including a site visit, occur within two business days of becoming aware of the illicit discharge.

of the investigation; any follow-up of the investigation; and the date the investigation was closed.

(c) The LACFCD shall prioritize and investigate the source of all observed illicit discharges to its MS4.

(d) If the source of the illicit discharge is found to be a discharge authorized under an NPDES permit, the LACFCD shall document the source and report to the Regional Water Board within 30 days of determination. No further action is required.

(e) If the source of the illicit discharge has been determined to originate from within the jurisdiction of other Permittee(s) with land use authority over the suspected responsible party/parties, the LACFCD shall immediately alert the appropriate Permittee(s) of the problem for further action by the Permittee(s).

(4) When taking corrective action to eliminate illicit discharges, the LACFCD shall comply with the following:

(a) If the source of the illicit discharge has been determined or suspected by the LACFCD to originate within an upstream jurisdiction(s), the LACFCD shall immediately notify the upstream jurisdiction(s), and notify the Regional Water Board within 30 days of such determination and provide all the information collected and efforts taken.

(b) Once the Permittee with land use authority over the suspected responsible party/parties has been alerted, the LACFCD may continue to work in cooperation with the Permittee(s) to notify the responsible party/parties of the problem, and require the responsible party/parties to immediately initiate necessary corrective actions to eliminate the illicit discharge. Upon being notified that the discharge has been eliminated, the LACFCD may, in conjunction with the Permittee(s) conduct a follow-up investigation to verify that the discharge has been eliminated and cleaned up to the satisfaction of the LACFCD. The LACFCD shall document its follow-up investigation. The LACFCD may seek recovery and remediation costs from responsible parties or require compensation for the cost of all inspection and investigation activities. Resulting enforcement actions shall follow the program's Progressive Enforcement Policy.

(c) If the source of the illicit discharge cannot be traced to a suspected responsible party, the LACFCD, in conjunction with other affected Permittees, shall continue implementing the illicit discharge/spill response plan.

(5) In the event the LACFCD and/or other Permittees are unable to eliminate an ongoing illicit discharge following full execution of its legal authority and in accordance with its Progressive Enforcement Policy, including the inability to find the responsible party/parties, or other circumstances prevent the full elimination of an ongoing illicit discharge, the LACFCD and/or other Permittees shall notify the Regional Water Board within 30 days of such determination and provide available information to the Regional Water Board.

iv. Identification and Response to Illicit Connections

(1) Investigation

The LACFCD, upon discovery or upon receiving a report of a suspected illicit connection, shall initiate an investigation within 21 days, to determine the following: (1) source of the connection, (2) nature and volume of discharge through the connection, and (3) responsible party for the connection.

(2) Elimination

The LACFCD, upon confirmation of an illicit connection to its MS4, shall ensure that the connection is:

(a) Permitted or documented, provided the connection will only discharge storm water and non-storm water allowable under this Order or other individual or general NPDES Permits/WDRs, or

(b) Eliminated within 180 days of completion of the investigation, using its formal enforcement authority, if necessary, to eliminate the illicit connection.

(3) Documentation

Formal records must be maintained for all illicit connection investigations and the formal enforcement taken to eliminate illicit connections.

v. Public Reporting of Non-Stormwater Discharges and Spills

(1) The LACFCD shall, in collaboration with the County, continue to maintain the 888-CLEAN-LA hotline and corresponding internet site at www.888cleanla.org to promote, publicize, and facilitate public reporting of illicit discharges or water quality impacts associated with discharges into or from MS4s.

(2) The LACFCD shall include information regarding public reporting of illicit discharges or improper disposal on the signage adjacent to open channels as required in Part VI.D.9.h.vi.(4).

(3) The LACFCD shall develop and maintain written procedures that document how complaint calls and internet submissions are received, documented, and tracked to ensure that all complaints are adequately addressed. The procedures shall be evaluated annually to determine whether changes or updates are needed to ensure that the procedures accurately document the methods employed by the LACFCD. Any identified changes shall be made to the procedures subsequent to the annual evaluation.

(4) The LACFCD shall maintain documentation of the complaint calls and internet submissions and record the location of the reported spill or IC/ID and the actions undertaken, including referrals to other agencies, in response to all IC/ID complaints.

vi. Illicit Discharge and Spill Response Plan

(1) The LACFCD shall implement an ID and spill response plan for all spills that may discharge into its system. The ID and spill response plan shall clearly identify agencies responsible for ID and spill response and cleanup, contact information, and shall contain at a minimum the following requirements:

(a) Coordination with spill response teams throughout all appropriate departments, programs and agencies so that maximum water quality protection is provided.

(b) Initiation of investigation of all public and employee ID and spill complaints within one business day of receiving the complaint to assess validity.

(c) Response to ID and spills within 4 hours of becoming aware of the ID or spill, except where such IDs or spills occur on private property, in which case the response should be within 2 hours of gaining legal access to the property.

(d) IDs or spills that may endanger health or the environment shall be reported to appropriate public health agencies and the Office of Emergency Services (OES).

vii. Illicit Connection and Illicit Discharge Education and Training

(1) The LACFCD must continue to implement a training program regarding the identification of IC/IDs for all LACFCD field staff, who, as part of their normal job responsibilities (e.g., storm drain inspection and maintenance), may come into contact with or otherwise observe an illicit discharge or illicit connection to its MS4. Contact information, including the procedure for reporting an illicit discharge, must be included in the LACFCD's fleet vehicles that are used by field staff. Training program documents must be available for review by the Regional Water Board.

(2) The LACFCD's training program should address, at a minimum, the following:

(a) IC/ID identification, including definitions and examples,

(b) investigation,

(c) elimination,

(d) cleanup,

(e) reporting, and

(f) documentation.

(3) The LACFCD must create a list of applicable positions which require IC/ID training and ensure that training is provided at least twice during the term of this Order. The LACFCD must maintain documentation of the training activities.

(4) New LACFCD staff members must be provided with IC/ID training within 180 days of starting employment.

(5) The LACFCD shall require its contractors to train their employees in targeted positions as described above.

5. Public Information and Participation Program

a. General

i. Each Permittee shall implement a Public Information and Participation Program (PIPP) that includes the requirements listed in this Part VI.D.5. Each Permittee shall be responsible for developing and implementing the PIPP and implementing specific PIPP requirements. The objectives of the PIPP are as follows:

(1) To measurably increase the knowledge of the target audiences about the MS4, the adverse impacts of storm water pollution on receiving waters and potential solutions to mitigate the impacts.

(2) To measurably change the waste disposal and storm water pollution generation behavior of target audiences by developing and encouraging the implementation of appropriate alternatives.

(3) To involve and engage a diversity of socio-economic groups and ethnic communities in Los Angeles County to participate in mitigating the impacts of storm water pollution.

b. PIPP Implementation

i. Each Permittee shall implement the PIPP requirements listed in this Part VI.D.4 using one or more of the following approaches:

(1) By participating in a County-wide PIPP,

(2) By participating in one or more Watershed Group sponsored PIPPs, and/or

(3) Or individually within its jurisdiction.

ii. If a Permittee participates in a County-wide or Watershed Group PIPP, the Permittee shall provide the contact information for their appropriate staff responsible for storm water public education activities to the designated PIPP coordinator and contact information changes no later than 30 days after a change occurs.

c. Public Participation

i. Each Permittee, whether participating in a County-wide or Watershed Group sponsored PIPP, or acting individually, shall provide a means for public reporting of clogged catch basin inlets and illicit discharges/dumping, faded or missing catch basin labels, and general storm water and non-storm water pollution prevention information.

(1) Permittees may elect to use the 888-CLEAN-LA hotline as the general public reporting contact or each Permittee or Watershed Group may establish its own hotline, if preferred.

(2) Each Permittee shall include the reporting information, updated when necessary, in public information, and the government pages of the telephone book, as they are developed or published.

(3) Each Permittee shall identify staff or departments who will serve as the contact person(s) and shall make this information available on its website.

(4) Each Permittee is responsible for providing current, updated hotline contact information to the general public within its jurisdiction.

ii. Organize events targeted to residents and population subgroups to educate and involve the community in storm water and non-storm water pollution prevention and clean-up (e.g., education seminars, clean-ups, and community catch basin stenciling).

d. Residential Outreach Program

i. Working in conjunction with a County-wide or Watershed Group sponsored PIPP or individually, each Permittee shall implement the following activities:

(1) Conduct storm water pollution prevention public service announcements and advertising campaigns

(2) Public education materials shall include but are not limited to information on the proper handling (i.e., disposal, storage and/or use) of:

(a) Vehicle waste fluids

(b) Household waste materials (i.e., trash and household hazardous waste, including personal care products and pharmaceuticals)

(c) Construction waste materials

(d) Pesticides and fertilizers (including integrated pest management practices [IPM] to promote reduced use of pesticides)

(e) Green waste (including lawn clippings and leaves)

(f) Animal wastes

(3) Distribute activity specific storm water pollution prevention public education materials at, but not limited to, the following points of purchase:

(a) Automotive parts stores

(b) Home improvement centers / lumber yards / hardware stores/paint stores

(c) Landscaping / gardening centers

(d) Pet shops / feed stores

(4) Maintain storm water websites or provide links to storm water websites via the Permittee's website, which shall include educational material and opportunities for the public to participate in storm water pollution prevention and clean-up activities listed in Part VI.D.4.

(5) Provide independent, parochial, and public schools within in each Permittee's jurisdiction with materials to educate school children (K-12) on storm water pollution. Material may include videos, live presentations, and other information. Permittees are encouraged to work with, or leverage, materials produced by other statewide agencies and associations such as the State Water Board's "Erase the Waste" educational program and the California Environmental Education Interagency Network (CEEIN) to implement this requirement.

(6) When implementing activities in subsections (1)-(5), Permittees shall use effective strategies to educate and involve ethnic communities in storm water pollution prevention through culturally effective methods.

6. Industrial/Commercial Facilities Program

a. General

i. Each Permittee shall implement an Industrial / Commercial Facilities Program that meets the requirements of this Part VI.D.6. The Industrial / Commercial

Facilities Program shall be designed to prevent illicit discharges into the MS4 and receiving waters, reduce industrial / commercial discharges of storm water to the maximum extent practicable, and prevent industrial / commercial discharges from the MS4 from causing or contributing to a violation of receiving water limitations. At a minimum, the Industrial / Commercial Facilities Program shall be implemented in accordance with the requirements listed in this Part VI.D.6, or as approved in a Watershed Management Program per Part VI.C. Minimum program components shall include the following components:

(1) Track

(2) Educate

(3) Inspect

(4) Ensure compliance with municipal ordinances at industrial and commercial facilities that are critical sources of pollutants in storm water

b. Track Critical Industrial / Commercial Sources

i. Each Permittee shall maintain an updated watershed-based inventory or database containing the latitude / longitude coordinates of all industrial and commercial facilities within its jurisdiction that are critical sources of storm water pollution. The inventory or database shall be maintained in electronic format and incorporation of facility information into a Geographical Information System (GIS) is recommended. Critical Sources to be tracked are summarized below:

(1) Commercial Facilities

(a) Restaurants

(b) Automotive service facilities (including those located at automotive dealerships)

(c) Retail Gasoline Outlets

(d) Nurseries and Nursery Centers (Merchant Wholesalers, Nondurable Goods, and Retail Trade)

(2) USEPA “Phase I” Facilities [as specified in 40 CFR §122.26(b)(14)(i)-(xi)]

(3) Other federally-mandated facilities [as specified in 40 CFR §122.26(d)(2)(iv)(C)]

(a) Municipal landfills

(b) Hazardous waste treatment, disposal, and recovery facilities

(c) Industrial facilities subject to section 313 “Toxic Release Inventory” reporting requirements of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) [42 U.S.C. § 11023]

(4) All other commercial or industrial facilities that the Permittee determines may contribute a substantial pollutant load to the MS4.

ii. Each Permittee shall include the following minimum fields of information for each critical source industrial and commercial facility identified in its watershed-based inventory or database:

(1) Name of facility

(2) Name of owner/ operator and contact information

(3) Address of facility (physical and mailing)

(4) North American Industry Classification System (NAICS) code

(5) Standard Industrial Classification (SIC) code

(6) A narrative description of the activities performed and/or principal products produced

(7) Status of exposure of materials to storm water

(8) Name of receiving water

(9) Identification of whether the facility is tributary to a CWA § 303(d) listed water body segment or water body segment subject to a TMDL, where the facility generates pollutants for which the water body segment is impaired.

(10) Ability to denote if the facility is known to maintain coverage under the State Water Board's General NPDES Permit for the Discharge of Stormwater Associated with Industrial Activities (Industrial General Permit) or other individual or general NPDES permits or any applicable waiver issued by the Regional or State Water Board pertaining to storm water discharges.

(11) Ability to denote if the facility has filed a No Exposure Certification with the State Water Board.

iii. Each Permittee shall update its inventory of critical sources at least annually. The update shall be accomplished through collection of new information obtained through field activities or through other readily available inter- and intra-agency informational databases (e.g., business licenses, pretreatment permits, sanitary sewer connection permits, and similar information).

c. Educate Industrial / Commercial Sources

i. At least once during the five-year period of this Order, each Permittee shall notify the owner/operator of each of its inventoried commercial and industrial sites identified in Part VI.D.6.b of the BMP requirements applicable to the site/source.

ii. Business Assistance Program

(1) Each Permittee shall implement a Business Assistance Program to provide technical information to businesses to facilitate their efforts to reduce the discharge of pollutants in storm water. Assistance shall be targeted to select business sectors or small businesses upon a determination that their activities may be contributing substantial pollutant

loads to the MS4 or receiving water. Assistance may include technical guidance and provision of educational materials. The Program may include:

(a) On-site technical assistance, telephone, or e-mail consultation regarding the responsibilities of business to reduce the discharge of pollutants, procedural requirements, and available guidance documents.

(b) Distribution of storm water pollution prevention educational materials to operators of auto repair shops; car wash facilities; restaurants and mobile sources including automobile/equipment repair, washing, or detailing; power washing services; mobile carpet, drape, or upholstery cleaning services; swimming pool, water softener, and spa services; portable sanitary services; and commercial applicators and distributors of pesticides, herbicides and fertilizers, if present.

d. Inspect Critical Commercial Sources

i. Frequency of Mandatory Commercial Facility Inspections

Each Permittee shall inspect all commercial facilities identified in Part VI.D.6.b twice during the 5-year term of the Order, provided that the first mandatory compliance inspection occurs no later than 2 years after the effective date of this Order. A minimum interval of 6 months between the first and the second mandatory compliance inspection is required. In addition, each Permittee shall implement the activities outlined in the following subparts.

ii. Scope of Mandatory Commercial Facility Inspections

Each Permittee shall inspect all commercial facilities to confirm that storm water and non-storm water BMPs are being effectively implemented in compliance with municipal ordinances. At each facility, inspectors shall verify that the operator is implementing effective source control BMPs for each corresponding activity. Each Permittee shall require implementation of additional BMPs where storm water from the MS4 discharges to a significant ecological area (SEA), a water body subject to TMDL provisions in Part VI.E, or a CWA § 303(d) listed impaired water body. Likewise, for those BMPs that are not adequately protective of water quality standards, a Permittee may require additional site-specific controls.

e. Inspect Critical Industrial Sources

Each Permittee shall conduct industrial facility compliance inspections as specified below.

i. Frequency of Mandatory Industrial Facility Compliance Inspections

(1) Minimum Inspection Frequency

Each Permittee shall perform an initial mandatory compliance inspection at all industrial facilities identified in Part VI.D.6.b no later than 2 years after the effective date of this Order. After the initial inspection, all

facilities that have not filed a No Exposure Certification with the State Water Board are subject to a second mandatory compliance inspection. A minimum interval of 6 months between the first and the second mandatory compliance inspection is required. A facility need not be inspected more than twice during the term of the Order unless subject to an enforcement action as specified in Part VI.D.6.h below.

(2) Exclusion of Facilities Previously Inspected by the Regional Water Board

Each Permittee shall review the State Water Board's Storm Water Multiple Application and Report Tracking System (SMARTS) database[24] at defined intervals to determine if an industrial facility has recently been inspected by the Regional Water Board. The first interval shall occur approximately 2 years after the effective date of the Order. The Permittee does not need to inspect the facility if it is determined that the Regional Water Board conducted an inspection of the facility within the prior 24 month period. The second interval shall occur approximately 4 years after the effective date of the Order. Likewise, the Permittee does not need to inspect the facility if it is determined that the Regional Water Board conducted an inspection of the facility within the prior 24 month period.

(3) No Exposure Verification

As a component of the first mandatory inspection, each Permittee shall identify those facilities that have filed a No Exposure Certification with the State Water Board. Approximately 3 to 4 years after the effective date of the Order, each Permittee shall evaluate its inventory of industrial facilities and perform a second mandatory compliance inspection at a minimum of 25% of the facilities identified to have filed a No Exposure Certification. The purpose of this inspection is to verify the continuity of the no exposure status.

(4) Exclusion Based on Watershed Management Program

A Permittee is exempt from the mandatory inspection frequencies listed above if it is implementing industrial inspections in accordance with an approved Watershed Management Program per Part VI.C.

ii. Scope of Mandatory Industrial Facility Inspections

Each Permittee shall confirm that each industrial facility:

(1) Has a current Waste Discharge Identification (WDID) number for coverage under the Industrial General Permit, and that a Storm Water Pollution Prevention Plan (SWPPP) is available on-site; *or*

(2) Has applied for, and has received a current No Exposure Certification for facilities subject to this requirement;

(3) Is effectively implementing BMPs in compliance with municipal ordinances. Facilities must implement the source control BMPs identified

[24] SMARTS is accessible at https://smarts.waterboards.ca.gov/smarts/faces/SwSmartsLogin.jsp

in Table 10, unless the pollutant generating activity does not occur. The Permittees shall require implementation of additional BMPs where storm water from the MS4 discharges to a water body subject to TMDL Provisions in Part VI.E, or a CWA § 303(d) listed impaired water body. Likewise, if the specified BMPs are not adequately protective of water quality standards, a Permittee may require additional site-specific controls. For critical sources that discharge to MS4s that discharge to SEAs, each Permittee shall require operators to implement additional pollutant-specific controls to reduce pollutants in storm water runoff that are causing or contributing to exceedances of water quality standards.

(4) Applicable industrial facilities identified as not having either a current WDID or No Exposure Certification shall be notified that they must obtain coverage under the Industrial General Permit and shall be referred to the Regional Water Board per the Progressive Enforcement Policy procedures identified in Part VI.D.2.

f. Source Control BMPs for Commercial and Industrial Facilities

Effective source control BMPs for the activities listed in Table 10 shall be implemented at commercial and industrial facilities, unless the pollutant generating activity does not occur:

Table 10. Source Control BMPs at Commercial and Industrial Facilities

Pollutant-Generating Activity	BMP Narrative Description
Unauthorized Non-Storm water Discharges	Effective elimination of non-storm water discharges
Accidental Spills/ Leaks	Implementation of effective spills/ leaks prevention and response procedures
Vehicle/ Equipment Fueling	Implementation of effective fueling source control devices and practices
Vehicle/ Equipment Cleaning	Implementation of effective equipment/ vehicle cleaning practices and appropriate wash water management practices
Vehicle/ Equipment Repair	Implementation of effective vehicle/ equipment repair practices and source control devices
Outdoor Liquid Storage	Implementation of effective outdoor liquid storage source controls and practices
Outdoor Equipment Operations	Implementation of effective outdoor equipment source control devices and practices
Outdoor Storage of Raw Materials	Implementation of effective source control practices and structural devices
Storage and Handling of Solid Waste	Implementation of effective solid waste storage/ handling practices and appropriate control measures
Building and Grounds Maintenance	Implementation of effective facility maintenance practices

Pollutant-Generating Activity	BMP Narrative Description
Parking/ Storage Area Maintenance	Implementation of effective parking/ storage area designs and housekeeping/ maintenance practices
Storm water Conveyance System Maintenance Practices	Implementation of proper conveyance system operation and maintenance protocols
Pollutant-Generating Activity	**BMP Narrative Description from Regional Water Board Resolution No. 98-08**
Sidewalk Washing	**1.** Remove trash, debris, and free standing oil/grease spills/leaks (use absorbent material, if necessary) from the area before washing; and **2.** Use high pressure, low volume spray washing using only potable water with no cleaning agents at an average usage of 0.006 gallons per square feet of sidewalk area.
Street Washing	Collect and divert wash water to the sanitary sewer – publically owned treatment works (POTW). Note: POTW approval may be needed.

g. Significant Ecological Areas (SEAs)

See VI.D.6.e.ii.3.

h. Progressive Enforcement

Each Permittee shall implement its Progressive Enforcement Policy to ensure that Industrial / Commercial facilities are brought into compliance with all storm water requirements within a reasonable time period. See Part VI.D.2 for requirements for the development and implementation of a Progressive Enforcement Policy.

7. Planning and Land Development Program

a. Purpose

i. Each Permittee shall implement a Planning and Land Development Program pursuant to Part VI.D.7.b for all New Development and Redevelopment projects subject to this Order to:

(1) Lessen the water quality impacts of development by using smart growth practices such as compact development, directing development towards existing communities via infill or redevelopment, and safeguarding of environmentally sensitive areas.

(2) Minimize the adverse impacts from storm water runoff on the biological integrity of Natural Drainage Systems and the beneficial uses of water

bodies in accordance with requirements under CEQA (Cal. Pub. Resources Code § 21000 et seq.).

(3) Minimize the percentage of impervious surfaces on land developments by minimizing soil compaction during construction, designing projects to minimize the impervious area footprint, and employing Low Impact Development (LID) design principles to mimic predevelopment hydrology through infiltration, evapotranspiration and rainfall harvest and use.

(4) Maintain existing riparian buffers and enhance riparian buffers when possible.

(5) Minimize pollutant loadings from impervious surfaces such as roof tops, parking lots, and roadways through the use of properly designed, technically appropriate BMPs (including Source Control BMPs such as good housekeeping practices), LID Strategies, and Treatment Control BMPs.

(6) Properly select, design and maintain LID and Hydromodification Control BMPs to address pollutants that are likely to be generated, reduce changes to pre-development hydrology, assure long-term function, and avoid the breeding of vectors[25].

(7) Prioritize the selection of BMPs to remove storm water pollutants, reduce storm water runoff volume, and beneficially use storm water to support an integrated approach to protecting water quality and managing water resources in the following order of preference:

(a) On-site infiltration, bioretention and/or rainfall harvest and use.

(b) On-site biofiltration, off-site ground water replenishment, and/or off-site retrofit.

b. Applicability

i. New Development Projects

(1) Development projects subject to Permittee conditioning and approval for the design and implementation of post-construction controls to mitigate storm water pollution, prior to completion of the project(s), are:

(a) All development projects equal to 1 acre or greater of disturbed area and adding more than 10,000 square feet of impervious surface area

(b) Industrial parks 10,000 square feet or more of surface area

(c) Commercial malls 10,000 square feet or more surface area

(d) Retail gasoline outlets 5,000 square feet or more of surface area

(e) Restaurants (SIC 5812) 5,000 square feet or more of surface area

[25] Treatment BMPs when designed to drain within 96 hours of the end of rainfall minimize the potential for the breeding of vectors. See California Department of Public Health *Best Management Practices for Mosquito Control in California* (2012) at http://www.westnile.ca.gov/resources.php

(f) Parking lots 5,000 square feet or more of impervious surface area, or with 25 or more parking spaces

(g) Street and road construction of 10,000 square feet or more of impervious surface area shall follow USEPA guidance regarding Managing Wet Weather with Green Infrastructure: Green Streets[26] (December 2008 EPA-833-F-08-009) to the maximum extent practicable. Street and road construction applies to standalone streets, roads, highways, and freeway projects, and also applies to streets within larger projects.

(h) Automotive service facilities (SIC 5013, 5014, 5511, 5541, 7532-7534 and 7536-7539) 5,000 square feet or more of surface area

(i) Redevelopment projects in subject categories that meet Redevelopment thresholds identified in Part VI.D.6.b.ii (Redevelopment Projects) below

(j) Projects located in or directly adjacent to, or discharging directly to a Significant Ecological Area (SEA), where the development will:

(i) Discharge storm water runoff that is likely to impact a sensitive biological species or habitat; and

(ii) Create 2,500 square feet or more of impervious surface area

(k) Single-family hillside homes. To the extent that a Permittee may lawfully impose conditions, mitigation measures or other requirements on the development or construction of a single-family home in a hillside area as defined in the applicable Permittee's Code and Ordinances, each Permittee shall require that during the construction of a single-family hillside home, the following measures are implemented:

(i) Conserve natural areas

(ii) Protect slopes and channels

(iii) Provide storm drain system stenciling and signage

(iv) Divert roof runoff to vegetated areas before discharge unless the diversion would result in slope instability

(v) Direct surface flow to vegetated areas before discharge unless the diversion would result in slope instability.

ii. Redevelopment Projects

(1) Redevelopment projects subject to Permittee conditioning and approval for the design and implementation of post-construction controls to mitigate storm water pollution, prior to completion of the project(s), are:

(a) Land-disturbing activity that results in the creation or addition or replacement of 5,000 square feet or more of impervious surface area

[26] http://water.epa.gov/infrastructure/greeninfrastructure/index.cfm

on an already developed site on development categories identified in Part VI.D.6.c. (New Development/Redevelopment Performance Criteria).

(b) Where Redevelopment results in an alteration to more than fifty percent of impervious surfaces of a previously existing development, and the existing development was not subject to post-construction storm water quality control requirements, the entire project must be mitigated.

(c) Where Redevelopment results in an alteration of less than fifty percent of impervious surfaces of a previously existing development, and the existing development was not subject to post-construction storm water quality control requirements, only the alteration must be mitigated, and not the entire development.

(i) Redevelopment does not include routine maintenance activities that are conducted to maintain original line and grade, hydraulic capacity, original purpose of facility or emergency redevelopment activity required to protect public health and safety. Impervious surface replacement, such as the reconstruction of parking lots and roadways which does not disturb additional area and maintains the original grade and alignment, is considered a routine maintenance activity. Redevelopment does not include the repaving of existing roads to maintain original line and grade.

(ii) Existing single-family dwelling and accessory structures are exempt from the Redevelopment requirements unless such projects create, add, or replace 10,000 square feet of impervious surface area.

(d) In this section, Existing Development or Redevelopment projects shall mean all discretionary permit projects or project phases that have not been deemed complete for processing, or discretionary permit projects without vesting tentative maps that have not requested and received an extension of previously granted approvals within 90 days of adoption of the Order. Projects that have been deemed complete within 90 days of adoption of the Order are not subject to the requirements Section 7.c. For Permittee's projects the effective date shall be the date the governing body or their designee approves initiation of the project design.

(e) Specifically, the Newhall Ranch Project Phases I and II (a.k.a. the Landmark and Mission Village projects) are deemed to be an existing development that will at a minimum, be designed to comply with the Specific LID Performance Standards attached to the Waste Discharge Requirements (Order No. R4-2012-0139). All subsequent phases of the Newhall Ranch Project constructed during the term of this Order shall be subject to the requirements of this Order.

c. New Development/ Redevelopment Project Performance Criteria

i. Integrated Water Quality/Flow Reduction/Resources Management Criteria

(1) Each Permittee shall require all New Development and Redevelopment projects (referred to hereinafter as "new projects") identified in Part VI.D.7.b to control pollutants, pollutant loads, and runoff volume emanating from the project site by: (1) minimizing the impervious surface area and (2) controlling runoff from impervious surfaces through infiltration, bioretention and/or rainfall harvest and use.

(2) Except as provided in Part VI.D.7.c.ii. (Technical Infeasibility or Opportunity for Regional Ground Water Replenishment), Part VI.D.7.d.i (Local Ordinance Equivalence), or Part VI.D.7.c.v (Hydromodification), below, each Permittee shall require the project to retain on-site the Stormwater Quality Design Volume (SWQDv) defined as the runoff from:

(a) The 0.75-inch, 24-hour rain event or

(b) The 85th percentile, 24-hour rain event, as determined from the Los Angeles County 85th percentile precipitation isohyetal map, *whichever is greater*.

(3) Bioretention and biofiltration systems shall meet the design specifications provided in Attachment H to this Order unless otherwise approved by the Regional Water Board Executive Officer.

(4) When evaluating the potential for on-site retention, each Permittee shall consider the maximum potential for evapotranspiration from green roofs and rainfall harvest and use.

ii. Alternative Compliance for Technical Infeasibility or Opportunity for Regional Ground Water Replenishment

(1) In instances of technical infeasibility or where a project has been determined to provide an opportunity to replenish regional ground water supplies at an offsite location, each Permittee may allow projects to comply with this Order through the alternative compliance measures as described in Part VI.D.7.c.iii.

(2) To demonstrate technical infeasibility, the project applicant must demonstrate that the project cannot reliably retain 100 percent of the SWQDv on-site, even with the maximum application of green roofs and rainwater harvest and use, and that compliance with the applicable post-construction requirements would be technically infeasible by submitting a site-specific hydrologic and/or design analysis conducted and endorsed by a registered professional engineer, geologist, architect, and/or landscape architect. Technical infeasibility may result from conditions including the following:

(a) The infiltration rate of saturated in-situ soils is less than 0.3 inch per hour and it is not technically feasible to amend the in-situ soils to attain an infiltration rate necessary to achieve reliable performance of infiltration or bioretention BMPs in retaining the SWQDv on-site.

(b) Locations where seasonal high ground water is within 5 to 10 feet of the surface,

(c) Locations within 100 feet of a ground water well used for drinking water,

(d) Brownfield development sites where infiltration poses a risk of causing pollutant mobilization,

(e) Other locations where pollutant mobilization is a documented concern[27],

(f) Locations with potential geotechnical hazards, or

(g) Smart growth and infill or redevelopment locations where the density and/ or nature of the project would create significant difficulty for compliance with the on-site volume retention requirement.

(3) To utilize alternative compliance measures to replenish ground water at an offsite location, the project applicant shall demonstrate *(i)* why it is not advantageous to replenish ground water at the project site, *(ii)* that ground water can be used for beneficial purposes at the offsite location, and *(iii)* that the alternative measures shall also provide equal or greater water quality benefits to the receiving surface water than the Water Quality/Flow Reduction/Resource Management Criteria in Part VI.7.D.c.i.

iii. Alternative Compliance Measures

When a Permittee determines a project applicant has demonstrated that it is technically infeasible to retain 100 percent of the SWQDv on-site, or is proposing an alternative offsite project to replenish regional ground water supplies, the Permittee shall require one of the following mitigation options:

(1) On-site Biofiltration

(a) If using biofiltration due to demonstrated technical infeasibility, then the new project must biofiltrate 1.5 times the portion of the SWQDv that is not reliably retained on-site, as calculated by Equation 1 below.

Equation 1:

$$Bv = 1.5 * [SWQDv - Rv]$$

Where:

Bv = biofiltration volume

[27] Pollutant mobilization is considered a documented concern at or near properties that are contaminated or store hazardous substances underground.

SWQDv = the storm water runoff from a 0.75 inch, 24-hour storm or the 85th percentile storm, *whichever is greater*.

Rv = volume reliably retained on-site

(b) Conditions for On-site Biofiltration

(i) Biofiltration systems shall meet the design specifications provided in Attachment H to this Order unless otherwise approved by the Regional Water Board Executive Officer.

(ii) Biofiltration systems discharging to a receiving water that is included on the Clean Water Act section 303(d) list of impaired water quality-limited water bodies due to nitrogen compounds or related effects shall be designed and maintained to achieve enhanced nitrogen removal capability. See Attachment H for design criteria for underdrain placement to achieve enhanced nitrogen removal.

(2) Offsite Infiltration

(a) Use infiltration or bioretention BMPs to intercept a volume of storm water runoff equal to the SWQDv, less the volume of storm water runoff reliably retained on-site, at an approved offsite project, and

(b) Provide pollutant reduction (treatment) of the storm water runoff discharged from the project site in accordance with the Water Quality Mitigation Criteria provided in Part VI.D.7.c.iv.

(c) The required offsite mitigation volume shall be calculated by Equation 2 below and equal to:

Equation 2:

$$Mv = 1.0 * [SWQDv - Rv]$$

Where:

Mv = mitigation volume

SWQDv = runoff from the 0.75 inch, 24-hour storm event or the 85th percentile storm, *whichever is greater*

Rv = the volume of storm water runoff reliably retained on-site.

(3) Ground Water Replenishment Projects

Permittees may propose, in their Watershed Management Program or EWMP, regional projects to replenish regional ground water supplies at offsite locations, provided the groundwater supply has a designated beneficial use in the Basin Plan.

(a) Regional groundwater replenishment projects must use infiltration, ground water replenishment, or bioretention BMPs to intercept a volume of storm water runoff equal to the SWQDv for new development and redevelopment projects, subject to Permittee conditioning and approval for the design and implementation of post-construction controls, within the approved project area, and

(b) Provide pollutant reduction (treatment) of the storm water runoff discharged from development projects, within the project area, subject to Permittee conditioning and approval for the design and implementation of post-construction controls to mitigate storm water pollution in accordance with the Water Quality Mitigation Criteria provided in Part VI.D.7.c.iv.

(c) Permittees implementing a regional ground water replenishment project in lieu of onsite controls shall ensure the volume of runoff captured by the project shall be equal to:

Equation 2:

$$Mv = 1.0 * [SWQDv - Rv]$$

Where:

Mv = mitigation volume

SWQDv = runoff from the 0.75 inch, 24-hour storm event or the 85th percentile storm, whichever is greater

Rv = the volume of storm water runoff reliably retained on-site.

(d) Regional groundwater replenishment projects shall be located in the same sub-watershed (defined as draining to the same HUC-12 hydrologic area in the Basin Plan) as the new development or redevelopment projects which did not implement on site retention BMPs . Each Permittee may consider locations outside of the HUC-12 but within the HUC-10 subwatershed area if there are no opportunities within the HUC-12 subwatershed or if greater pollutant reductions and/or ground water replenishment can be achieved at a location within the expanded HUC-10 subwatershed. The use of a mitigation, ground water replenishment, or retrofit project outside of the HUC-12 subwatershed is subject to the approval of the Executive Officer of the Regional Water Board.

(4) Offsite Project - Retrofit Existing Development

Use infiltration, bioretention, rainfall harvest and use and/or biofiltration BMPs to retrofit an existing development, with similar land uses as the new development or land uses associated with comparable or higher storm water runoff event mean concentrations (EMCs) than the new development.

Comparison of EMCs for different land uses shall be based on published data from studies performed in southern California. The retrofit plan shall be designed and constructed to:

(a) Intercept a volume of storm water runoff equal to the mitigation volume (Mv) as described above in Equation 2, except biofiltration BMPs shall be designed to meet the biofiltration volume as described in Equation 1 and

(b) Provide pollutant reduction (treatment) of the storm water runoff from the project site as described in the Water Quality Mitigation Criteria provided in Part VI.D.7.c.iv.

(5) Conditions for Offsite Projects

(a) Project applicants seeking to utilize these alternative compliance provisions may propose other offsite projects, which the Permittees may approve if they meet the requirements of this subpart.

(b) Location of offsite projects. Offsite projects shall be located in the same sub-watershed (defined as draining to the same HUC-12 hydrologic area in the Basin Plan) as the new development or redevelopment project. Each Permittee may consider locations outside of the HUC-12 but within the HUC-10 subwatershed area if there are no opportunities within the HUC-12 subwatershed or if greater pollutant reductions and/or ground water replenishment can be achieved at a location within the expanded HUC-10 subwatershed. The use of a mitigation, ground water replenishment, or retrofit project outside of the HUC-12 subwatershed is subject to the approval of the Executive Officer of the Regional Water Board.

(c) Project applicant must demonstrate that equal benefits to ground water recharge cannot be met on the project site.

(d) Each Permittee shall develop a prioritized list of offsite mitigation, ground water replenishment and/or retrofit projects, and when feasible, the mitigation must be directed to the highest priority project within the same HUC-12 or if approved by the Regional Water Board Executive Officer, the HUC-10 drainage area, as the new development project.

(e) Infiltration/bioretention shall be the preferred LID BMP for offsite mitigation or ground water replenishment projects. Offsite retrofit projects may include green streets, parking lot retrofits, green roofs, and rainfall harvest and use. Biofiltration BMPs may be considered for retrofit projects when infiltration, bioretention or rainfall harvest and use is technically infeasible.

(f) Each Permittee shall develop a schedule for the completion of offsite projects, including milestone dates to identify, fund, design, and construct the projects. Offsite projects shall be completed as soon as possible, and at the latest, within 4 years of the certificate of occupancy for the first project that contributed funds toward the

construction of the offsite project, unless a longer period is otherwise authorized by the Executive Officer of the Regional Water Board. For public offsite projects, each Permittee must provide in their annual reports a summary of total offsite project funds raised to date and a description (including location, general design concept, volume of water expected to be retained, and total estimated budget) of all pending public offsite projects. Funding sufficient to address the offsite volume must be transferred to the Permittee (for public offsite mitigation projects) or to an escrow account (for private offsite mitigation projects) within one year of the initiation of construction.

(g) Offsite projects must be approved by the Permittee and may be subject to approval by the Regional Water Board Executive Officer, if a third-party petitions the Executive Officer to review the project. Offsite projects will be publicly noticed on the Regional Water Board's website for 30 days prior to approval.

(h) The project applicant must perform the offsite projects as approved by either the Permittee or the Regional Water Board Executive Officer or provide sufficient funding for public or private offsite projects to achieve the equivalent mitigation storm water volume.

(6) Regional Storm Water Mitigation Program

A Permittee or Permittee group may apply to the Regional Water Board for approval of a regional or sub-regional storm water mitigation program to substitute in part or wholly for New and Redevelopment requirements for the area covered by the regional or sub-regional storm water mitigation program. Upon review and a determination by the Regional Water Board Executive Officer that the proposal is technically valid and appropriate, the Regional Water Board may consider for approval such a program if its implementation meets all of the following requirements:

(a) Retains the runoff from the 85th percentile, 24-hour rain event or the 0.75 inch, 24-hour rain event, whichever is greater;
(b) Results in improved storm water quality;
(c) Protects stream habitat;
(d) Promotes cooperative problem solving by diverse interests;
(e) Is fiscally sustainable and has secure funding; and
(f) Is completed in five years including the construction and start-up of treatment facilities.
(g) Nothing in this provision shall be construed as to delay the implementation of requirements for new and redevelopment, as approved in this Order.

(7) Water Quality Mitigation Criteria

(a) Each Permittee shall require all New Development and Redevelopment projects that have been approved for offsite mitigation or ground water replenishment projects as defined in Part VI.D.7.c.ii-iii to also provide treatment of storm water runoff from the project site. Each Permittee shall require these projects to design and implement post-construction storm water BMPs and control measures to reduce pollutant loading as necessary to:

(i) Meet the pollutant specific benchmarks listed in Table 11 at the treatment systems outlet or prior to the discharge to the MS4, and

(ii) Ensure that the discharge does not cause or contribute to an exceedance of water quality standards at the Permittee's downstream MS4 outfall.

(b) Each Permittee may allow the project proponent to install flow-through modular treatment systems including sand filters, or other proprietary BMP treatment systems with a demonstrated efficiency at least equivalent to a sand filter. The sizing of the flow through treatment device shall be based on a rainfall intensity of:

(i) 0.2 inches per hour, or

(ii) The one year, one-hour rainfall intensity as determined from the most recent Los Angeles County isohyetal map, *whichever is greater*.

Table 11. Benchmarks Applicable to New Development Treatment BMPs[28]

Conventional Pollutants

Pollutant	Suspended Solids mg/L	Total P mg/L	Total N mg/L		TKN mg/L	
Effluent Concentration	14	0.13	1.28		1.09	

Metals

Pollutant	Total Cd µg/L	Total Cu µg/L	Total Cr µg/L	Total Pb µg/L	Total Zn µg/L
Effluent Concentration	0.3	6	2.8	2.5	23

[28] The treatment control BMP performance benchmarks were developed from the median effluent water quality values of the six highest performing BMPs, per pollutant, in the storm water BMP database (http://www.bmpdatabase.org/, last visited September 25, 2012).

(c) In addition to the requirements for controlling pollutant discharges as described in Part VI.D.7.c.iii. and the treatment benchmarks described above, each Permittee shall ensure that the new development or redevelopment will not cause or contribute to an exceedance of applicable water quality-based effluent limitations established in Part VI.E pursuant to Total Maximum Daily Loads (TMDLs).

iv. Hydromodification (Flow/ Volume/ Duration) Control Criteria

Each Permittee shall require all New Development and Redevelopment projects located within natural drainage systems as described in Part VI.D.7.c.iv.(1)(a)(iii) to implement hydrologic control measures, to prevent accelerated downstream erosion and to protect stream habitat in natural drainage systems. The purpose of the hydrologic controls is to minimize changes in post-development hydrologic storm water runoff discharge rates, velocities, and duration. This shall be achieved by maintaining the project's pre-project storm water runoff flow rates and durations.

(1) Description

(a) Hydromodification control in natural drainage systems shall be achieved by maintaining the Erosion Potential (Ep) in streams at a value of 1, unless an alternative value can be shown to be protective of the natural drainage systems from erosion, incision, and sedimentation that can occur as a result of flow increases from impervious surfaces and prevent damage to stream habitat in natural drainage system tributaries (see Attachment J - Determination of Erosion Potential).

(ii) Hydromodification control may include one, or a combination of on-site, regional or sub-regional hydromodification control BMPs, LID strategies, or stream and riparian buffer restoration measures. Any in-stream restoration measure shall not adversely affect the beneficial uses of the natural drainage systems.

(iii) Natural drainage systems that are subject to the hydromodification assessments and controls as described in this Part of the Order, include all drainages that have not been improved (e.g., channelized or armored with concrete, shotcrete, or rip-rap) or drainage systems that are tributary to a natural drainage system, except as provided in Part VI.D.7c.iv.(1)(b)--Exemptions to Hydromodification Controls [see below]. The clearing or dredging of a natural drainage system does not constitute an "improvement."

(iv) Until the State Water Board or the Regional Water Board adopts a final Hydromodification Policy or criteria, Permittees shall implement the Hydromodification Control Criteria described in Part VI.D.7.c.iv.(1)(c) to control the potential adverse impacts of changes in hydrology that may result from new development and

redevelopment projects located within natural drainage systems as described in Part VI.D.7.c.iv.(1)(a)(iii).

(b) Exemptions to Hydromodification Controls. Permittees may exempt the following New Development and Redevelopment projects from implementation of hydromodification controls where assessments of downstream channel conditions and proposed discharge hydrology indicate that adverse hydromodification effects to beneficial uses of Natural Drainage Systems are unlikely:

(i) Projects that are replacement, maintenance or repair of a Permittee's existing flood control facility, storm drain, or transportation network.

(ii) Redevelopment Projects in the Urban Core that do not increase the effective impervious area or decrease the infiltration capacity of pervious areas compared to the pre-project conditions.

(iii) Projects that have any increased discharge directly or via a storm drain to a sump, lake, area under tidal influence, into a waterway that has a 100-year peak flow (Q100) of 25,000 cfs or more, or other receiving water that is not susceptible to hydromodification impacts.

(iv) Projects that discharge directly or via a storm drain into concrete or otherwise engineered (not natural) channels (e.g., channelized or armored with rip rap, shotcrete, etc.), which, in turn, discharge into receiving water that is not susceptible to hydromodification impacts (as in Parts VI.D.7.c.iv.(1)(b)(i)-(iii) above).

(v) LID BMPs implemented on single family homes are sufficient to comply with Hydromodification criteria.

(c) Hydromodification Control Criteria. The Hydromodification Control Criteria to protect natural drainage systems are as follows:

(i) Except as provided for in Part VI.D.7.c.iv.(1)(b), projects disturbing an area greater than 1 acre but less than 50 acres within natural drainage systems will be presumed to meet pre-development hydrology if one of the following demonstrations is made:

1. The project is designed to retain on-site, through infiltration, evapotranspiration, and/or harvest and use, the storm water volume from the runoff of the 95th percentile, 24-hour storm, or
2. The runoff flow rate, volume, velocity, and duration for the post-development condition do not exceed the pre-development condition for the 2-year, 24-hour rainfall event. This condition may be substantiated by simple screening models, including those described in *Hydromodification Effects on Flow Peaks*

and Durations in Southern California Urbanizing Watersheds (Hawley et al., 2011) or other models acceptable to the Executive Officer of the Regional Water Board, or

3. The Erosion Potential (Ep) in the receiving water channel will approximate 1, as determined by a Hydromodification Analysis Study and the equation presented in Attachment J. Alternatively, Permittees can opt to use other work equations to calculate Erosion Potential with Executive Officer approval.

(ii) Projects disturbing 50 acres or more within natural drainage systems will be presumed to meet pre-development hydrology based on the successful demonstration of one of the following conditions:

1. The site infiltrates on-site at least the runoff from a 2-year, 24-hour storm event, or
2. The runoff flow rate, volume, velocity, and duration for the post-development condition does not exceed the pre-development condition for the 2-year, 24-hour rainfall events. These conditions must be substantiated by hydrologic modeling acceptable to the Regional Water Board Executive Officer, or
3. The Erosion Potential (Ep) in the receiving water channel will approximate 1, as determined by a Hydromodification Analysis Study and the equation presented in Attachment J.

(c) Alternative Hydromodification Criteria

(i) Permittees may satisfy the requirement for Hydromodification Controls by implementing the hydromodification requirements in the County of Los Angeles Low Impact Development Manual (2009) for all projects disturbing an area greater than 1 acre within natural drainage systems.

(ii) Each Permittee may alternatively develop and implement watershed specific Hydromodification Control Plans (HCPs). Such plans shall be developed no later than one year after the effective date of this Order.

(iii) The HCP shall identify:

1. Stream classifications
2. Flow rate and duration control methods
3. Sub-watershed mitigation strategies
4. Stream and/or riparian buffer restoration measures, which will maintain the stream and tributary Erosion Potential at 1 unless

an alternative value can be shown to be protective of the natural drainage systems from erosion, incision, and sedimentation that can occur as a result of flow increases from impervious surfaces and prevent damage to stream habitat in natural drainage system tributaries.

(iv) The HCP shall contain the following elements:

1. Hydromodification Management Standards
2. Natural Drainage Areas and Hydromodification Management Control Areas
3. New Development and Redevelopment Projects subject to the HCP
4. Description of authorized Hydromodification Management Control BMPs
5. Hydromodification Management Control BMP Design Criteria
6. For flow duration control methods, the range of flows to control for, and goodness of fit criteria
7. Allowable low critical flow, Qc, which initiates sediment transport
8. Description of the approved Hydromodification Model
9. Any alternate Hydromodification Management Model and Design
10. Stream Restoration Measures Design Criteria
11. Monitoring and Effectiveness Assessment
12. Record Keeping
13. The HCP shall be deemed in effect upon Executive Officer approval.

v. Watershed Equivalence.

Regardless of the methods through which Permittees allow project applicants to implement alternative compliance measures, the subwatershed-wide (defined as draining to the same HUC-12 hydrologic area in the Basin Plan) result of all development must be at least the same level of water quality protection as would have been achieved if all projects utilizing these alternative compliance provisions had complied with Part VI.D.7.c.i (Integrated Water Quality/Flow Reduction/Resource Management Criteria).

vi. Annual Report

Each Permittee shall provide in their annual report to the Regional Water Board a list of mitigation project descriptions and estimated pollutant and flow reduction analyses (compiled from design specifications submitted by project

applicants and approved by the Permittee(s)). Within 4 years of Order adoption, Permittees must submit in their Annual Report, a comparison of the expected aggregate results of alternative compliance projects to the results that would otherwise have been achieved by retaining on site the SWQDv.

d. Implementation

i. Local Ordinance Equivalence

A Permittee that has adopted a local LID ordinance prior to the adoption of this Order, and which includes a retention requirement numerically equal to the 0.75-inch, 24-hour rain event or the 85th percentile, 24-hour rain event, whichever is greater, may submit documentation to the Regional Water Board that the alternative requirements in the local ordinance will provide equal or greater reduction in storm water discharge pollutant loading and volume as would have been obtained through strict conformance with Part VI.D.7.c.i. (Integrated Water Quality/Flow Reduction Resources Management Criteria) or Part VI.D.7.c.ii. (Alternative Compliance Measures for Technical Infeasibility or Opportunity for Regional Ground water Replenishment) of this Order and, if applicable, Part VI.D.7.c.iv. (Hydromodification (Flow/Volume Duration) Control Criteria).

(1) Documentation shall be submitted within 180 days after the effective date of this Order.

(2) The Regional Water Board shall provide public notice of the proposed equivalency determination and a minimum 30-day period for public comment. After review and consideration of public comments, the Regional Water Board Executive Officer will determine whether implementation of the local ordinance provides equivalent pollutant control to the applicable provisions of this Order. Local ordinances that do not strictly conform to the provisions of this Order must be approved by the Regional Water Board Executive Officer as being "equivalent" in effect to the applicable provisions of this Order in order to substitute for the requirements in Parts VI.D.7.c.i and, where applicable, VI.D.7.c.iv.

(3) Where the Regional Water Board Executive Officer determines that a Permittee's local LID ordinance does not provide equivalent pollutant control, the Permittee shall either

(a) Require conformance with Parts VI.D.7.c.i and, where applicable, VI.D.7.c.iv, or

(b) Update its local ordinance to conform to the requirements herein within two years of the effective date of this Order.

ii. Project Coordination

(1) Each Permittee shall facilitate a process for effective approval of post-construction storm water control measures. The process shall include:

(a) Detailed LID site design and BMP review including BMP sizing calculations, BMP pollutant removal performance, and municipal approval; and

(b) An established structure for communication and delineated authority between and among municipal departments that have jurisdiction over project review, plan approval, and project construction through memoranda of understanding or an equivalent agreement.

iii. Maintenance Agreement and Transfer

(1) Prior to issuing approval for final occupancy, each Permittee shall require that all new development and redevelopment projects subject to post-construction BMP requirements, with the exception of simple LID BMPs implemented on single family residences, provide an operation and maintenance plan, monitoring plan, where required, and verification of ongoing maintenance provisions for LID practices, Treatment Control BMPs, and Hydromodification Control BMPs including but not limited to: final map conditions, legal agreements, covenants, conditions or restrictions, CEQA mitigation requirements, conditional use permits, and/ or other legally binding maintenance agreements. Permittees shall require maintenance records be kept on site for treatment BMPs implemented on single family residences.

(a) Verification at a minimum shall include the developer's signed statement accepting responsibility for maintenance until the responsibility is legally transferred; and either:

(i) A signed statement from the public entity assuming responsibility for BMP maintenance; or

(ii) Written conditions in the sales or lease agreement, which require the property owner or tenant to assume responsibility for BMP maintenance and conduct a maintenance inspection at least once a year; or

(iii) Written text in project covenants, conditions, and restrictions (CCRs) for residential properties assigning BMP maintenance responsibilities to the Home Owners Association; or

(iv) Any other legally enforceable agreement or mechanism that assigns responsibility for the maintenance of BMPs.

(b) Each Permittee shall require all development projects subject to post-construction BMP requirements to provide a plan for the operation and maintenance of all structural and treatment controls. The plan shall be submitted for examination of relevance to keeping the BMPs in proper working order. Where BMPs are transferred to Permittee for ownership and maintenance, the plan shall also include all relevant costs for upkeep of BMPs in the transfer. Operation and Maintenance plans for private BMPs shall be kept on-site for periodic review by Permittee inspectors.

iv. Tracking, Inspection, and Enforcement of Post-Construction BMPs

(1) Each Permittee shall implement a tracking system and an inspection and enforcement program for new development and redevelopment post-construction storm water no later than 60 days after Order adoption date.

(a) Implement a GIS or other electronic system for tracking projects that have been conditioned for post-construction BMPs. The electronic system, at a minimum, should contain the following information:

(i) Municipal Project ID

(ii) State WDID No.

(iii) Project Acreage

(iv) BMP Type and Description

(v) BMP Location (coordinates)

(vi) Date of Acceptance

(vii) Date of Maintenance Agreement

(viii) Maintenance Records

(ix) Inspection Date and Summary

(x) Corrective Action

(xi) Date Certificate of Occupancy Issued

(xii) Replacement or Repair Date

(b) Inspect all development sites upon completion of construction and prior to the issuance of occupancy certificates to ensure proper installation of LID measures, structural BMPs, treatment control BMPs and hydromodification control BMPs. The inspection may be combined with other inspections provided it is conducted by trained personnel.

(c) Verify proper maintenance and operation of post-construction BMPs previously approved for new development and redevelopment and operated by the Permittee. The post-construction BMP maintenance inspection program shall incorporate the following elements:

(i) The development of a Post-construction BMP Maintenance Inspection checklist

(ii) Inspection at least once every 2 years after project completion, of post-construction BMPs to assess operation conditions with particular attention to criteria and procedures for post-construction

treatment control and hydromodification control BMP repair, replacement, or re-vegetation.

(d) For post-construction BMPs operated and maintained by parties other than the Permittee, the Permittee shall require the other parties to document proper maintenance and operations.

(e) Undertake enforcement action per the established Progressive Enforcement Policy as appropriate based on the results of the inspection. See Part VI.D.2 for requirements for the development and implementation of a Progressive Enforcement Policy.

8. Development Construction Program

a. Each Permittee shall develop, implement, and enforce a construction program that:

i. Prevents illicit construction-related discharges of pollutants into the MS4 and receiving waters.

ii. Implements and maintains structural and non-structural BMPs to reduce pollutants in storm water runoff from construction sites.

iii. Reduces construction site discharges of pollutants to the MS4 to the MEP.

iv. Prevents construction site discharges to the MS4 from causing or contributing to a violation of water quality standards.

b. Each Permittee shall establish for its jurisdiction an enforceable erosion and sediment control ordinance for all construction sites that disturb soil.

c. Applicability

The provisions contained in Part VI.D.8.d below apply exclusively to construction sites less than 1 acre. Provisions contained in Part VI.D.8.e – j, apply exclusively to construction sites 1 acre or greater. The requirements contained in this part apply to all activities involving soil disturbance with the exception of agricultural activities. Activities covered by this permit include but are not limited to grading, vegetation clearing, soil compaction, paving, re-paving and linear underground/overhead projects (LUPs).

d. Requirements for Construction Sites Less than One Acre

i. For construction sites less than 1 acre, each Permittee shall:

(1) Through the use of the Permittee's erosion and sediment control ordinance or and/or building permit, require the implementation of an effective combination of erosion and sediment control BMPs from Table 12 to prevent erosion and sediment loss, and the discharge of construction wastes.

Table 12. Applicable Set of BMPs for All Construction Sites

Erosion Controls	Scheduling
	Preservation of Existing Vegetation
Sediment Controls	Silt Fence
	Sand Bag Barrier
	Stabilized Construction Site Entrance/Exit
Non-Storm Water Management	Water Conservation Practices
	Dewatering Operations
Waste Management	Material Delivery and Storage
	Stockpile Management
	Spill Prevention and Control
	Solid Waste Management
	Concrete Waste Management
	Sanitary/Septic Waste Management

(2) Possess the ability to identify all construction sites with soil disturbing activities that require a permit, regardless of size, and shall be able to provide a list of permitted sites upon request of the Regional Water Board. Permittees may use existing permit databases or other tracking systems to comply with these requirements.

(3) Inspect construction sites on as needed based on the evaluation of the factors that are a threat to water quality. In evaluating the threat to water quality, the following factors shall be considered: soil erosion potential; site slope; project size and type; sensitivity of receiving water bodies; proximity to receiving water bodies; non-storm water discharges; past record of non-compliance by the operators of the construction site; and any water quality issues relevant to the particular MS4.

(4) Implement the Permittee's Progressive Enforcement Policy to ensure that construction sites are brought into compliance with the erosion and sediment control ordinance within a reasonable time period. See Part VI.D.2 for requirements for the development and implementation of a Progressive Enforcement Policy.

e. Each Permittee shall require operators of public and private construction sites within its jurisdiction to select, install, implement, and maintain BMPs that comply with its erosion and sediment control ordinance.

f. The requirements contained in this part apply to all activities involving soil disturbance with the exception of agricultural activities. Activities covered by this permit include but are not limited to grading, vegetation clearing, soil compaction, paving, re-paving and linear underground/overhead projects (LUPs).

g. Construction Site Inventory / Electronic Tracking System

i. Each Permittee shall use an electronic system to inventory grading permits, encroachment permits, demolition permits, building permits, or construction permits (and any other municipal authorization to move soil and/ or construct or destruct that involves land disturbance) issued by the Permittee. To satisfy this requirement, the use of a database or GIS system is recommended.

ii. Each Permittee shall complete an inventory and continuously update as new sites are permitted and sites are completed. The inventory / tracking system shall contain, at a minimum:

(1) Relevant contact information for each project (e.g., name, address, phone, email, etc. for the owner and contractor.

(2) The basic site information including location, status, size of the project and area of disturbance.

(3) The proximity all water bodies, water bodies listed as impaired by sediment-related pollutants, and water bodies for which a sediment-related TMDL has been adopted and approved by USEPA.

(4) Significant threat to water quality status, based on consideration of factors listed in Appendix 1 to the Statewide General Permit for Discharges of Storm Water Associated with Construction Activity (Construction General Permit).

(5) Current construction phase where feasible.

(6) The required inspection frequency.

(7) The project start date and anticipated completion date.

(8) Whether the project has submitted a Notice of Intent and obtained coverage under the Construction General Permit.

(9) The date the Permittee approved the Erosion and Sediment Control Plan (ESCP).

(10) Post-Construction Structural BMPs subject to Operation and Maintenance Requirements.

h. Construction Plan Review and Approval Procedures

i. Each Permittee shall develop procedures to review and approve relevant construction plan documents.

ii. The review procedures shall be developed and implemented such that the following minimum requirements are met:

(1) Prior to issuing a grading or building permit, each Permittee shall require each operator of a construction activity within its jurisdiction to prepare and submit an ESCP prior to the disturbance of land for the Permittee's review and written approval. The construction site operator shall be prohibited from commencing construction activity prior to receipt of written approval by the Permittee. Each Permittee shall not approve any ESCP unless it contains appropriate site-specific construction site BMPs that

meet the minimum requirements of a Permittee's erosion and sediment control ordinance.

(2) ESCPs must include the elements of a Storm Water Pollution Prevention Plan (SWPPP). SWPPPs prepared in accordance with the requirements of the Construction General Permit can be accepted as ESCPs.

(3) At a minimum, the ESCP must address the following elements:

(a) Methods to minimize the footprint of the disturbed area and to prevent soil compaction outside of the disturbed area.

(b) Methods used to protect native vegetation and trees.

(c) Sediment/Erosion Control.

(d) Controls to prevent tracking on and off the site.

(e) Non-storm water controls (e.g., vehicle washing, dewatering, etc.).

(f) Materials Management (delivery and storage).

(g) Spill Prevention and Control.

(h) Waste Management (e.g., concrete washout/waste management; sanitary waste management).

(i) Identification of site Risk Level as identified per the requirements in Appendix 1 of the Construction General Permit.

(4) The ESCP must include the rationale for the selection and design of the proposed BMPs, including quantifying the expected soil loss from different BMPs.

(5) Each Permittee shall require that the ESCP is developed and certified by a Qualified SWPPP Developer (QSD).

(6) Each Permittee shall require that all structural BMPs be designed by a licensed California Engineer.

(7) Each Permittee shall require that for all sites, the landowner or the landowner's agent sign a statement on the ESCP as follows:

(a) "I certify that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure 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, to the best of my knowledge and belief, the information submitted is true, accurate, and complete. I am aware that submitting false and/ or inaccurate information, failing to update the ESCP to reflect current conditions, or failing to properly and/ or adequately implement the ESCP may result in revocation of grading and/ or other permits or other sanctions provided by law."

(8) Prior to issuing a grading or building permit, each Permittee must verify that the construction site operators have existing coverage under

applicable permits, including, but not limited to the State Water Board's Construction General Permit, and State Water Board 401 Water Quality Certification.

(9) Each Permittee shall develop and implement a checklist to be used to conduct and document review of each ESCP.

i. BMP Implementation Level

i. Each Permittee shall implement technical standards for the selection, installation and maintenance of construction BMPs for all construction sites within its jurisdiction.

ii. The BMP technical standards shall require:

(1) The use of BMPs that are tailored to the risks posed by the project. Sites are to be ranked from Low Risk (Risk 1) to High Risk (Risk 3). Project risks are to be calculated based on the potential for erosion from the site and the sensitivity of the receiving water body. Receiving water bodies that are listed on the Clean Water Act (CWA) Section 303(d) list for sediment or siltation are considered High Risk. Likewise, water bodies with designated beneficial uses of SPWN, COLD, and MIGR are also considered to be High Risk. The combined (sediment/receiving water) site risk shall be calculated using the methods provided in Appendix 1 of the Construction General Permit. At a minimum, the BMP technical standards shall include requirements for High Risk sites as defined in Table 15.

(2) The use of BMPs for all construction sites, sites equal or greater to 1 acre, and for paving projects per Tables 14 and 16 of this Order.

(3) Detailed installation designs and cut sheets for use within ESCPs.

(4) Maintenance expectations for each BMP, or category of BMPs, as appropriate.

iii. Permittees are encouraged to adopt respective BMPs from latest versions of the *California BMP Handbook, Construction* or *Caltrans Stormwater Quality Handbooks, Construction Site Best Management Practices (BMPs) Manual* and addenda. Alternatively, Permittees are authorized to develop or adopt equivalent BMP standards consistent for Southern California and for the range of activities presented below in Tables 13 through 16.

iv. The local BMP technical standards shall be readily available to the development community and shall be clearly referenced within each Permittee's storm water or development services website, ordinance, permit approval process and/or ESCP review forms. The local BMP technical standards shall also be readily available to the Regional Water Board upon request.

v. Local BMP technical standards shall be available for the following:

Table 13. Minimum Set of BMPs for All Construction Sites

Erosion Controls	Scheduling
	Preservation of Existing Vegetation
Sediment Controls	Silt Fence
	Sand Bag Barrier
	Stabilized Construction Site Entrance/Exit
Non-Storm water Management	Water Conservation Practices
	Dewatering Operations
Waste Management	Material Delivery and Storage
	Stockpile Management
	Spill Prevention and Control
	Solid Waste Management
	Concrete Waste Management
	Sanitary/Septic Waste Management

Table 14. Additional BMPs Applicable to Construction Sites Disturbing 1 Acre or More

Erosion Controls	Hydraulic Mulch
	Hydroseeding
	Soil Binders
	Straw Mulch
	Geotextiles and Mats
	Wood Mulching
Sediment Controls	Fiber Rolls
	Gravel Bag Berm
	Street Sweeping and/ or Vacuum
	Storm Drain Inlet Protection
	Scheduling
	Check Dam
Additional Controls	Wind Erosion Controls
	Stabilized Construction Entrance/ Exit
	Stabilized Construction Roadway
	Entrance/ Exit Tire Wash
Non-Storm water Management	Vehicle and Equipment Washing
	Vehicle and Equipment Fueling
	Vehicle and Equipment Maintenance
Waste Management	Material Delivery and Storage
	Spill Prevention and Control

Table 15. Additional Enhanced BMPs for High Risk Sites

Erosion Controls	Hydraulic Mulch
	Hydroseeding
	Soil Binders
	Straw Mulch

	Geotextiles and Mats
	Wood Mulching
	Slope Drains
Sediment Controls	Silt Fence
	Fiber Rolls
	Sediment Basin
	Check Dam
	Gravel Bag Berm
	Street Sweeping and/or Vacuum
	Sand Bag Barrier
	Storm Drain Inlet Protection
Additional Controls	Wind Erosion Controls
	Stabilized Construction Entrance/Exit
	Stabilized Construction Roadway
	Entrance/Exit Tire Wash
	Advanced Treatment Systems*
Non-Storm water Management	Water Conservation Practices
	Dewatering Operations (Ground water dewatering only under NPDES Permit No. CAG994004)
	Vehicle and Equipment Washing
	Vehicle and Equipment Fueling
	Vehicle and Equipment Maintenance
Waste Management	Material Delivery and Storage
	Stockpile Management
	Spill Prevention and Control
	Solid Waste Management

* Applies to public roadway projects.

Table 16. Minimum Required BMPs for Roadway Paving or Repair Operation (For Private or Public Projects)

1.	Restrict paving and repaving activity to exclude periods of rainfall or predicted rainfall unless required by emergency conditions.
2.	Install gravel bags and filter fabric or other equivalent inlet protection at all susceptible storm drain inlets and at manholes to prevent spills of paving products and tack coat.
3.	Prevent the discharge of release agents including soybean oil, other oils, or diesel to the storm water drainage system or receiving waters.
4.	Minimize non storm water runoff from water use for the roller and for evaporative cooling of the asphalt.
5.	Clean equipment over absorbent pads, drip pans, plastic sheeting or other material to capture all spillage and dispose of properly.
6.	Collect liquid waste in a container, with a secure lid, for transport to a maintenance facility to be reused, recycled or disposed of properly.
7.	Collect solid waste by vacuuming or sweeping and securing in an

	appropriate container for transport to a maintenance facility to be reused, recycled or disposed of properly.
8.	Cover the "cold-mix" asphalt (i.e., pre-mixed aggregate and asphalt binder) with protective sheeting during a rainstorm.
9.	Cover loads with tarp before haul-off to a storage site, and do not overload trucks.
10.	Minimize airborne dust by using water spray or other approved dust suppressant during grinding.
11.	Avoid stockpiling soil, sand, sediment, asphalt material and asphalt grindings materials or rubble in or near storm water drainage system or receiving waters.
12.	Protect stockpiles with a cover or sediment barriers during a rain.

j. Construction Site Inspection

i. Each Permittee shall use its legal authority to implement procedures for inspecting public and private construction sites.

ii. The inspection procedures shall be implemented as follows:

(1) Inspect the public and private construction sites as specified in Table 17 below:

Table 17. Inspection Frequencies for Sites One Acre or Greater

Site	Inspection Frequency Shall Occur
a. All sites 1 acre or larger that discharge to a tributary listed by the state as an impaired water for sediment or turbidity under the CWA § 303(d)	(1) when two or more consecutive days with greater than 50% chance of rainfall are predicted by NOAA[29], (2) within 48 hours of a ½-inch rain event and at (3) least once every two weeks
b. Other sites 1 acre or more determined to be a significant threat to water quality[30]	
c. All other construction sites with 1 acre or more of soil disturbance not meeting the criteria above	At least monthly

(2) Each Permittee shall inspect all phases of construction as follows:

(a) Prior to Land Disturbance

Prior to allowing an operator to commence land disturbance, each Permittee shall perform an inspection to ensure all necessary erosion

[29] www.srh.noaa.gov/forecast

[30] In evaluating the threat to water quality, the following factors shall be considered: soil erosion potential; site slope; project size and type; sensitivity of receiving water bodies; proximity to receiving water bodies; non-storm water discharges; past record of non-compliance by the operators of the construction site; and any water quality issues relevant to the particular MS4.

and sediment structural and non-structural BMP materials and procedures are available per the erosion and sediment control plan.

(b) During Active Construction, including Land Development[31] and Vertical Construction[32]

In accordance with the frequencies specified in Part VI.D.8.j and Table 17 of this Order, each Permittee shall perform an inspection to ensure all necessary erosion and sediment structural and non-structural BMP materials and procedures are available per the erosion and sediment control plan throughout the construction process.

(c) Final Landscaping / Site Stabilization[33]

At the conclusion of the project and as a condition of approving and/or issuing a Certificate of Occupancy, each Permittee shall inspect the constructed site to ensure that all graded areas have reached final stabilization and that all trash, debris, and construction materials, and temporary erosion and sediment BMPs are removed.

(3) Based on the required frequencies above, each construction project shall be inspected a minimum of three times.

(4) Inspection Standard Operating Procedures

Each Permittee shall develop, implement, and revise as necessary, standard operating procedures that identify the inspection procedures each Permittee will follow. Inspections of construction sites, and the standard operating procedures, shall include, but are not limited to:

(a) Verification of active coverage under the Construction General Permit for sites disturbing 1 acre or more, or that are part of a planned development that will disturb 1 acre or more and a process for referring non-filers to the Regional Water Board.

(b) Review of the applicable ESCP and inspection of the construction site to determine whether all BMPs have been selected, installed, implemented, and maintained according to the approved plan and subsequent approved revisions.

(c) Assessment of the appropriateness of the planned and installed BMPs and their effectiveness.

(d) Visual observation and record keeping of non-storm water discharges, potential illicit discharges and connections, and potential discharge of pollutants in storm water runoff.

(e) Development of a written or electronic inspection report generated from an inspection checklist used in the field.

[31] Activities include cuts and fills, rough and finished grading; alluvium removals; canyon cleanouts; rock undercuts; keyway excavations; stockpiling of select material for capping operations; and excavation and street paving, lot grading, curbs, gutters and sidewalks, public utilities, public water facilities including fire hydrants, public sanitary sewer systems, storm sewer system and/or other drainage improvement.
[32] The build out of structures from foundations to roofing, including rough landscaping.
[33] All soil disturbing activities at each individual parcel within the site have been completed.

(f) Tracking of 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 in Table 17 of this Order.

k. Enforcement

Each Permittee shall implement its Progressive Enforcement Policy to ensure that construction sites are brought into compliance with all storm water requirements within a reasonable time period. See Part VI.D.2 for requirements for the development and implementation of a Progressive Enforcement Policy.

l. Permittee Staff Training

i. Each Permittee shall ensure that all staff whose primary job duties are related to implementing the construction storm water program are adequately trained.

ii. Each Permittee may conduct in-house training or contract with consultants. Training shall be provided to the following staff positions of the MS4:

(1) Plan Reviewers and Permitting Staff

Ensure staff and consultants are trained as qualified individuals, knowledgeable in the technical review of local erosion and sediment control ordinance, local BMP technical standards, ESCP requirements, and the key objectives of the State Water Board QSD program. Permittees may provide internal training to staff or require staff to obtain QSD certification.

(2) Erosion Sediment Control/Storm Water Inspectors

Each Permittee shall ensure that its inspectors are knowledgeable in inspection procedures consistent with the State Water Board sponsored program QSD or a Qualified SWPPP Practitioner (QSP) or that a designated person on staff who has been trained in the key objectives of the QSD/QSP programs supervises inspection operations. Each Permittee may provide internal training to staff or require staff to obtain QSD/QSP certification. Each inspector must be knowledgeable of the local BMP technical standards and ESCP requirements.

(3) Third-Party Plan Reviewers, Permitting Staff, and Inspectors

If the Permittee utilizes outside parties to conduct inspections and/or review plans, each Permittee shall ensure these staff are trained per the requirements listed above. Outside contractors can self-certify, providing they certify they have received all applicable training required in the Permit and have documentation to that effect.

9. Public Agency Activities Program

a. Each Permittee shall implement a Public Agency Activities Program to minimize storm water pollution impacts from Permittee-owned or operated facilities and activities and to identify opportunities to reduce storm water pollution impacts

from areas of existing development. Requirements for Public Agency Facilities and Activities consist of the following components:

i. Public Construction Activities Management

ii. Public Facility Inventory

iii. Inventory of Existing Development for Retrofitting Opportunities

iv. Public Facility and Activity Management

v. Vehicle and Equipment Wash Areas

vi. Landscape, Park, and Recreational Facilities Management

vii. Storm Drain Operation and Maintenance

viii. Streets, Roads, and Parking Facilities Maintenance

ix. Emergency Procedures

x. Municipal Employee and Contractor Training

b. Public Construction Activities Management

i. Each Permittee shall implement and comply with the Planning and Land Development Program requirements in Part VI.D.7 of this Order at Permittee-owned or operated (i.e., public or Permittee sponsored) construction projects that are categorized under the project types identified in Part VI.D.7.b of this Order.

ii. Each Permittee shall implement and comply with the appropriate Development Construction Program requirements in Part VI.D.8 of this Order at Permittee-owned or operated construction projects as applicable.

iii. For Permittee-owned or operated projects (including those under a capital improvement project plan) that disturb less than one acre of soil, each Permittee shall require an effective combination of erosion and sediment control BMPs from Table 13 (see Construction Development Program, minimum BMPs).

iv. Each Permittee shall obtain separate coverage under the Construction General Permit for all Permittee-owned or operated construction sites that require coverage.

c. Public Facility Inventory

i. Each Permittee shall maintain an updated inventory of all Permittee-owned or operated (i.e., public) facilities within its jurisdiction that are potential sources of storm water pollution. The incorporation of facility information into a GIS is recommended. Sources to be tracked include but are not limited to the following:

(1) Animal control facilities

(2) Chemical storage facilities

(3) Composting facilities

(4) Equipment storage and maintenance facilities (including landscape maintenance-related operations)

(5) Fueling or fuel storage facilities (including municipal airports)

(6) Hazardous waste disposal facilities

(7) Hazardous waste handling and transfer facilities

(8) Incinerators

(9) Landfills

(10) Materials storage yards

(11) Pesticide storage facilities

(12) Fire stations

(13) Public restrooms

(14) Public parking lots

(15) Public golf courses

(16) Public swimming pools

(17) Public parks

(18) Public works yards

(19) Public marinas

(20) Recycling facilities

(21) Solid waste handling and transfer facilities

(22) Vehicle storage and maintenance yards

(23) Storm water management facilities (e.g., detention basins)

(24) All other Permittee-owned or operated facilities or activities that each Permittee determines may contribute a substantial pollutant load to the MS4.

ii. Each Permittee shall include the following minimum fields of information for each Permittee-owned or operated facility in its inventory.

(1) Name of facility

(2) Name of facility manager and contact information

(3) Address of facility (physical and mailing)

(4) A narrative description of activities performed and potential pollution sources.

(5) Coverage under the Industrial General Permit or other individual or general NPDES permits or any applicable waiver issued by the Regional or State Water Board pertaining to storm water discharges.

iii. Each Permittee shall update its inventory at least once during the 5-year term of the Order. The update shall be accomplished through collection of new information obtained through field activities or through other readily available inter and intra-agency informational databases (e.g., property management, land-use approvals, accounting and depreciation ledger account, and similar information).

d. Inventory of Existing Development for Retrofitting Opportunities

i. Each Permittee shall develop an inventory of retrofitting opportunities that meets the requirements of this Part VI.9.d. Retrofit opportunities shall be identified within the public right-of-way or in coordination with a TMDL implementation plan(s). The goals of the existing development retrofitting inventory are to address the impacts of existing development through regional or sub-regional retrofit projects that reduce the discharges of storm water pollutants into the MS4 and prevent discharges from the MS4 from causing or contributing to a violation of water quality standards as defined in Part V.A, Receiving Water Limitations.

ii. Each Permittee shall screen existing areas of development to identify candidate areas for retrofitting using watershed models or other screening level tools.

iii. Each Permittee shall evaluate and rank the areas of existing development identified in the screening to prioritize retrofitting candidates. Criteria for evaluation may include but are not limited to:

(1) Feasibility, including general private and public land availability;

(2) Cost effectiveness;

(3) Pollutant removal effectiveness;

(4) Tributary area potentially treated;

(5) Maintenance requirements;

(6) Landowner cooperation;

(7) Neighborhood acceptance;

(8) Aesthetic qualities;

(9) Efficacy at addressing concern; and

(10) Potential improvements to public health and safety.

iv. Each Permittee shall consider the results of the evaluation in the following programs:

(1) The Permittee's storm water management program: Highly feasible projects expected to benefit water quality should be given a high priority to implement source control and treatment control BMPs in a Permittee's SWMP.

(2) Off-site mitigation for New Development and Redevelopment: Each Permittee shall consider high priority retrofit projects as candidates for off-site mitigation projects per Part VI.D.7.c.iii.(4).(d).

(3) Where feasible, at the discretion of the Permittee, the existing development retrofitting program may be coordinated with flood control projects and other infrastructure improvement programs per Part VI.D.9.e.ii.(2) below.

v. Each Permittee shall cooperate with private landowners to encourage site specific retrofitting projects. Each Permittee shall consider the following practices in cooperating with private landowners to retrofit existing development:

(1) Demonstration retrofit projects;

(2) Retrofits on public land and easements that treat runoff from private developments;

(3) Education and outreach;

(4) Subsidies for retrofit projects;

(5) Requiring retrofit projects as enforcement, mitigation or ordinance compliance;

(6) Public and private partnerships;

(7) Fees for existing discharges to the MS4 and reduction of fees for retrofit implementation.

e. Public Agency Facility and Activity Management

i. Each Permittee shall obtain separate coverage under the Industrial General Permit for all Permittee-owned or operated facilities where industrial activities are conducted that require coverage under the Industrial General Permit.

ii. Each Permittee shall implement the following measures for Permittee- owned and operated flood management projects:

(1) Develop procedures to assess the impacts of flood management projects on the water quality of receiving water bodies; and

(2) Evaluate existing structural flood control facilities to determine if retrofitting the facility to provide additional pollutant removal from storm water is feasible.

iii. Each Permittee shall ensure the implementation and maintenance of activity specific BMPs listed in Table 18 (BMPs for Public Agency Facilities and Activities) or an equivalent set of BMPs when such activities occur at Permittee-owned or operated facilities and field activities (e.g., project sites) including but not limited to the facility types listed in Part VI.D.9.c above, and at any area that includes the activities described in Table 18, or that have the potential to discharge pollutants in storm water.

iv. Any contractors hired by the Permittee to conduct Public Agency Activities including, but not limited to, storm and/or sanitary sewer system inspection and repair, street sweeping, trash pick-up and disposal, and street and right-of-way construction and repair shall be contractually required to implement and maintain the activity specific BMPs listed in Table 18. Each Permittee shall conduct oversight of contractor activities to ensure these BMPs are implemented and maintained.

v. Permittee-owned or operated facilities that have obtained coverage under the Industrial General Permit shall implement and maintain BMPs consistent with the associated SWPPP and are therefore not required to implement and maintain the activity specific BMPs listed in Table 18.

vi. Effective source control BMPs for the activities listed in Table 18 shall be implemented at Permittee-owned or operated facilities, unless the pollutant generating activity does not occur. Each Permittee shall require implementation of additional BMPs where storm water from the MS4 discharges to a significant ecological area (SEA, see Attachment A for definition), a water body subject to TMDL provisions in Part VI.E., or a CWA § 303(d) listed water body (see Part VI.E below). Likewise, for those BMPs that are not adequately protective of water quality standards, a Permittee may require additional site-specific controls.

Table 18. BMPs for Public Agency Facilities and Activities

General and Activity Specific BMPs	
General BMPs	Scheduling and Planning
	Spill Prevention and Control
	Sanitary/Septic Waste Management
	Material Use
	Safer Alternative Products
	Vehicle/Equipment Cleaning, Fueling and Maintenance
	Illicit Connection Detection, Reporting and Removal
	Illegal Spill Discharge Control
	Maintenance Facility Housekeeping Practices
Flexible Pavement	Asphalt Cement Crack and Joint Grinding/ Sealing
	Asphalt Paving
	Structural Pavement Failure (Digouts) Pavement Grinding and Paving
	Emergency Pothole Repairs
	Sealing Operations
Rigid Pavement	Portland Cement Crack and Joint Sealing
	Mudjacking and Drilling
	Concrete Slab and Spall Repair
Slope/ Drains/ Vegetation	Shoulder Grading
	Nonlandscaped Chemical Vegetation Control
	Nonlandscaped Mechanical Vegetation Control/

General and Activity Specific BMPs	
	Mowing
	Nonlandscaped Tree and Shrub Pruning, Brush Chipping, Tree and Shrub Removal
	Fence Repair
	Drainage Ditch and Channel Maintenance
	Drain and Culvert Maintenance
	Curb and Sidewalk Repair
Litter/ Debris/ Graffiti	Sweeping Operations
	Litter and Debris Removal
	Emergency Response and Cleanup Practices
	Graffiti Removal
Landscaping	Chemical Vegetation Control
	Manual Vegetation Control
	Landscaped Mechanical Vegetation Control/ Mowing
	Landscaped Tree and Shrub Pruning, Brush Chipping, Tree and Shrub Removal
	Irrigation Line Repairs
	Irrigation (Watering), Potable and Nonpotable
Environmental	Storm Drain Stenciling
	Roadside Slope Inspection
	Roadside Stabilization
	Stormwater Treatment Devices
	Traction Sand Trap Devices
Bridges	Welding and Grinding
	Sandblasting, Wet Blast with Sand Injection and Hydroblasting
	Painting
	Bridge Repairs
Other Structures	Pump Station Cleaning
	Tube and Tunnel Maintenance and Repair
	Tow Truck Operations
	Toll Booth Lane Scrubbing Operations
Electrical	Sawcutting for Loop Installation
Traffic Guidance	Thermoplastic Striping and Marking
	Paint Striping and Marking
	Raised/ Recessed Pavement Marker Application and Removal
	Sign Repair and Maintenance
	Median Barrier and Guard Rail Repair
	Emergency Vehicle Energy Attenuation Repair
Storm Maintenance	Minor Slides and Slipouts Cleanup/ Repair
Management and Support	Building and Grounds Maintenance
	Storage of Hazardous Materials (Working Stock)
	Material Storage Control (Hazardous Waste)

General and Activity Specific BMPs	
	Outdoor Storage of Raw Materials
	Vehicle and Equipment Fueling
	Vehicle and Equipment Cleaning
	Vehicle and Equipment Maintenance and Repair
	Aboveground and Underground Tank Leak and Spill Control

f. Vehicle and Equipment Washing

i. Each Permittee shall implement and maintain the activity specific BMPs listed in Table 18 (BMPs for Public Agency Facilities and Activities) for all fixed vehicle and equipment washing; including fire fighting and emergency response vehicles.

ii. Each Permittee shall prevent discharges of wash waters from vehicle and equipment washing to the MS4 by implementing any of the following measures at existing facilities with vehicle or equipment wash areas:

(1) Self-contain, and haul off for disposal; or

(2) Equip with a clarifier or an alternative pre-treatment device and plumb to the sanitary sewer in accordance with applicable waste water provider regulations.

iii. Each Permittee shall ensure that any municipal facilities constructed, redeveloped, or replaced shall not discharge wastewater from vehicle and equipment wash areas to the MS4 by plumbing all areas to the sanitary sewer in accordance with applicable waste water provider regulations, or self-containing all waste water/ wash water and hauling to a point of legal disposal.

g. Landscape, Park, and Recreational Facilities Management

i. Each Permittee shall implement and maintain the activity specific BMPs listed in Table 18 for all public right-of-ways, flood control facilities and open channels, lakes and reservoirs, and landscape, park, and recreational facilities and activities.

ii. Each Permittee shall implement an IPM program that includes the following:

(1) Pesticides are used only if monitoring indicates they are needed, and pesticides are applied according to applicable permits and established guidelines.

(2) Treatments are made with the goal of removing only the target organism.

(3) Pest controls are selected and applied in a manner that minimizes risks to human health, beneficial non-target organisms, and the environment.

(4) The use of pesticides, including Organophosphates and Pyrethroids, does not threaten water quality.

(5) Partner with other agencies and organizations to encourage the use of IPM.

(6) Adopt and verifiably implement policies, procedures, and/ or ordinances requiring the minimization of pesticide use and encouraging the use of IPM techniques (including beneficial insects) for Public Agency Facilities and Activities.

(7) Policies, procedures, and ordinances shall include commitments and a schedule to reduce the use of pesticides that cause impairment of surface waters by implementing the following procedures:

(a) Prepare and annually update an inventory of pesticides used by all internal departments, divisions, and other operational units.

(b) Quantify pesticide use by staff and hired contractors.

(c) Demonstrate implementation of IPM alternatives where feasible to reduce pesticide use.

iii. Each Permittee shall implement the following requirements:

(1) Use a standardized protocol for the routine and non-routine application of pesticides (including pre-emergents), and fertilizers.

(2) Ensure there is no application of pesticides or fertilizers (1) when two or more consecutive days with greater than 50% chance of rainfall are predicted by NOAA[34], (2) within 48 hours of a ½-inch rain event, or (3) when water is flowing off the area where the application is to occur. This requirement does not apply to the application of aquatic pesticides described in Part VI.D.9.g.iii.(1) above or pesticides which require water for activation.

(3) Ensure that no banned or unregistered pesticides are stored or applied.

(4) Ensure that all staff applying pesticides are certified in the appropriate category by the California Department of Pesticide Regulation, or are under the direct supervision of a pesticide applicator certified in the appropriate category.

(5) Implement procedures to encourage the retention and planting of native vegetation to reduce water, pesticide and fertilizer needs; and

(6) Store pesticides and fertilizers indoors or under cover on paved surfaces, or use secondary containment.

(a) Reduce the use, storage, and handling of hazardous materials to reduce the potential for spills.

(b) Regularly inspect storage areas.

h. Storm Drain Operation and Maintenance

[34] www.srh.noaa.gov/forecast

i. Each Permittee shall implement and maintain the activity specific BMPs listed in Table 18 for storm drain operation and maintenance.

ii. Ensure that all material removed from the MS4 does not reenter the system. Solid material shall be dewatered in a contained area and liquid material shall be disposed in accordance with any of the following measures:

(1) Self-contain, and haul off for legal disposal; or

(2) Applied to the land without runoff; or

(3) Equip with a clarifier or an alternative pre-treatment device; and plumb to the sanitary sewer in accordance with applicable waste water provider regulations.

iii. Catch Basin Cleaning

(1) In areas that are not subject to a trash TMDL, each Permittee shall determine priority areas and shall update its map or list of Catch Basins with their GPS coordinates and priority:

Priority A: Catch basins that are designated as consistently generating the highest volumes of trash and/or debris.

Priority B: Catch basins that are designated as consistently generating moderate volumes of trash and/or debris.

Priority C: Catch basins that are designated as generating low volumes of trash and/or debris.

The map or list shall contain the rationale or data to support priority designations.

(2) In areas that are not subject to a trash TMDL, each Permittee shall inspect catch basins according to the following schedule:

Priority A: A minimum of 3 times during the wet season (October 1 through April 15) and once during the dry season every year.

Priority B: A minimum of once during the wet season and once during the dry season every year.

Priority C: A minimum of once per year.

Catch basins shall be cleaned as necessary on the basis of inspections. At a minimum, Permittees shall ensure that any catch basin that is determined to be at least 25% full of trash shall be cleaned out. Permittees shall maintain inspection and cleaning records for Regional Water Board review.

(3) In areas that are subject to a trash TMDL, the subject Permittees shall implement the applicable provisions in Part VI.E.

iv. Trash Management at Public Events

(1) Each Permittee shall require the following measures for any event in the public right of way or wherever it is foreseeable that substantial quantities

of trash and litter may be generated, including events located in areas that are subject to a trash TMDL:

(a) Proper management of trash and litter generated; and

(b) Arrangement for temporary screens to be placed on catch basins; or

(c) Provide clean out of catch basins, trash receptacles, and grounds in the event area within one business day subsequent to the event.

v. Trash Receptacles

(1) Each Permittee shall ensure trash receptacles, or equivalent trash capturing devices, are covered in areas newly identified as high trash generation areas within its jurisdiction.

(2) Each Permittee shall ensure that all trash receptacles are cleaned out and maintained as necessary to prevent trash overflow.

vi. Catch Basin Labels and Open Channel Signage

(1) Each Permittee shall label all storm drain inlets that they own with a legible “no dumping” message.

(2) Each Permittee shall inspect the legibility of the stencil or label nearest each inlet prior to the wet season every year.

(3) Each Permittee shall record all catch basins with illegible stencils and re-stencil or re-label within 180 days of inspection.

(4) Each Permittee shall post signs, referencing local code(s) that prohibit littering and illegal dumping, at designated public access points to open channels, creeks, urban lakes, and other relevant water bodies.

vii. Additional Trash Management Practices

(1) In areas that are not subject to a trash TMDL, each Permittee shall install trash excluders, or equivalent devices, on or in catch basins or outfalls to prevent the discharge of trash to the MS4 or receiving water no later than four years after the effective date of this Order in areas defined as Priority A (Part VI.D.9.h.iii.(1)) except at sites where the application of such BMP(s) alone will cause flooding. Lack of maintenance that causes flooding is not an acceptable exception to the requirement to install BMPs. Alternatively, each Permittee may implement alternative or enhanced BMPs beyond the provisions of this Order (such as but not limited to increased street sweeping, adding trash cans near trash generation sites, prompt enforcement of trash accumulation, increased trash collection on public property, increased litter prevention messages or trash nets within the MS4) that provide substantially equivalent removal of trash. Each Permittee shall demonstrate that BMPs, which substituted for trash excluders, provide equivalent trash removal performance as excluders. When outfall trash capture is provided, revision of the schedule for inspection and cleanout of catch basins in Part VI.D.9.h.iii.(2) shall be reported in the next year’s annual report.

viii. Storm Drain Maintenance

Each Permittee shall implement a program for Storm Drain Maintenance that includes the following:

(1) Visual monitoring of Permittee-owned open channels and other drainage structures for trash and debris at least annually.

(2) Removal of trash and debris from open channels a minimum of once per year before the wet season.

(3) Elimination of the discharge of contaminants during MS4 maintenance and clean outs.

(4) Proper disposal of debris and trash removed during storm drain maintenance.

ix. Infiltration from Sanitary Sewer to MS4/Preventive Maintenance

(1) Each Permittee shall implement controls and measures to prevent and eliminate infiltration of seepage from sanitary sewers to MS4s through thorough, routine preventive maintenance of the MS4.

(2) Each Permittee that operates both a municipal sanitary sewer system and a MS4 must implement controls and measures to prevent and eliminate infiltration of seepage from the sanitary sewers to the MS4s that must include overall sanitary sewer and MS4 surveys and thorough, routine preventive maintenance of both. Implementation of a Sewer System Management Plan in accordance with the Statewide General Waste Discharge Requirements for Sanitary Sewer Systems, may be used to fulfill this requirement.

(3) Each Permittee shall implement controls to limit infiltration of seepage from sanitary sewers to the MS4 where necessary. Such controls must include:

(a) Adequate plan checking for construction and new development;

(b) Incident response training for its municipal employees that identify sanitary sewer spills;

(c) Code enforcement inspections;

(d) MS4 maintenance and inspections;

(e) Interagency coordination with sewer agencies; and

(f) Proper education of its municipal staff and contractors conducting field operations on the MS4 or its municipal sanitary sewer (if applicable).

x. Permittee Owned Treatment Control BMPs

(1) Each Permittee shall implement an inspection and maintenance program for all Permittee owned treatment control BMPs, including post-construction treatment control BMPs.

(2) Each Permittee shall ensure proper operation of all treatment control BMPs and maintain them as necessary for proper operation, including all post-construction treatment control BMPs.

(3) Any residual water[35] produced by a treatment control BMP and not being internal to the BMP performance when being maintained shall be:

(a) Hauled away and legally disposed of; or

(b) Applied to the land without runoff; or

(c) Discharged to the sanitary sewer system (with permits or authorization); or

(d) Treated or filtered to remove bacteria, sediments, nutrients, and meet the limitations set in Table 19 (Discharge Limitations for Dewatering Treatment BMPs), prior to discharge to the MS4.

Table 19. Discharge Limitations for Dewatering Treatment BMPs[36]

Parameter	Units	Limitation
Total Suspended Solids	mg/L	100
Turbidity	NTU	50
Oil and Grease	mg/L	10

i. Streets, Roads, and Parking Facilities Maintenance

i. Each Permittee shall designate streets and/or street segments within its jurisdiction as one of the following:

Priority A: Streets and/or street segments that are designated as consistently generating the highest volumes of trash and/or debris.

Priority B: Streets and/or street segments that are designated as consistently generating moderate volumes of trash and/or debris.

Priority C: Streets and/or street segments that are designated as generating low volumes of trash and/or debris.

ii. Each Permittee shall perform street sweeping of curbed streets according to the following schedule:

Priority A: Streets and/or street segments that are designated as Priority A shall be swept at least two times per month.

Priority B: Streets and/or street segments that are designated as Priority B shall be swept at least once per month.

Priority C: Streets and/or street segments that are designated as Priority C shall be swept as necessary but in no case less than once per year.

[35] See Attachment A.
[36] Technology based effluent limitations.

iii. Road Reconstruction

Each Permittee shall require that for any project that includes roadbed or street paving, repaving, patching, digouts, or resurfacing roadbed surfaces, that the following BMPs be implemented for each project.

(1) Restrict paving and repaving activity to exclude periods of rainfall or predicted rainfall[37] unless required by emergency conditions.

(2) Install sand bags or gravel bags and filter fabric at all susceptible storm drain inlets and at manholes to prevent spills of paving products and tack coat;

(3) Prevent the discharge of release agents including soybean oil, other oils, or diesel into the MS4 or receiving waters.

(4) Prevent non-storm water runoff from water use for the roller and for evaporative cooling of the asphalt.

(5) Clean equipment over absorbent pads, drip pans, plastic sheeting or other material to capture all spillage and dispose of properly.

(6) Collect liquid waste in a container, with a secure lid, for transport to a maintenance facility to be reused, recycled or disposed of properly.

(7) Collect solid waste by vacuuming or sweeping and securing in an appropriate container for transport to a maintenance facility to be reused, recycled or disposed of properly.

(8) Cover the "cold-mix" asphalt (i.e., pre-mixed aggregate and asphalt binder) with protective sheeting during a rainstorm.

(9) Cover loads with tarp before haul-off to a storage site, and do not overload trucks.

(10) Minimize airborne dust by using water spray during grinding.

(11) Avoid stockpiling soil, sand, sediment, asphalt material and asphalt grindings materials or rubble in or near MS4 or receiving waters.

(12) Protect stockpiles with a cover or sediment barriers during a rain.

iv. Parking Facilities Maintenance

(1) Permittee-owned parking lots exposed to storm water shall be kept clear of debris and excessive oil buildup and cleaned no less than 2 times per month and/or inspected no less than 2 times per month to determine if cleaning is necessary. In no case shall a Permittee-owned parking lot be cleaned less than once a month.

j. Emergency Procedures

i. Each Permittee may conduct repairs of essential public service systems and infrastructure in emergency situations with a self-waiver of the provisions of this Order as follows:

[37] A probability of precipitation (POP) of 50% is required.

(1) The Permittee shall abide by all other regulatory requirements, including notification to other agencies as appropriate.

(2) Where the self-waiver has been invoked, the Permittee shall submit to the Regional Water Board Executive Officer a statement of the occurrence of the emergency, an explanation of the circumstances, and the measures that were implemented to reduce the threat to water quality, no later than 30 business days after the situation of emergency has passed.

(3) Minor repairs of essential public service systems and infrastructure in emergency situations (that can be completed in less than one week) are not subject to the notification provisions. Appropriate BMPs to reduce the threat to water quality shall be implemented.

k. Municipal Employee and Contractor Training

i. Each Permittee shall, no later than 1 year after Order adoption and annually thereafter before June 30, train all of their employees in targeted positions (whose interactions, jobs, and activities affect storm water quality) on the requirements of the overall storm water management program, or shall ensure contractors performing privatized/contracted municipal services are appropriately trained to:

(1) Promote a clear understanding of the potential for activities to pollute storm water.

(2) Identify opportunities to require, implement, and maintain appropriate BMPs in their line of work.

Outside contractors can self-certify, providing they certify they have received all applicable training required in the Permit and have documentation to that effect.

ii. Each Permittee shall, no later than 1 year after Order adoption and annually thereafter before June 30, train all of their employees and contractors who use or have the potential to use pesticides or fertilizers (whether or not they normally apply these as part of their work). Training programs shall address:

(1) The potential for pesticide-related surface water toxicity.

(2) Proper use, handling, and disposal of pesticides.

(3) Least toxic methods of pest prevention and control, including IPM.

(4) Reduction of pesticide use.

iii. Outside contractors can self-certify, providing they certify they have received all applicable training required in the Permit and have documentation to that effect.

10. Illicit Connections and Illicit Discharges Elimination Program

a. General

i. Each Permittee shall continue to implement an Illicit Connection and Illicit Discharge Elimination (IC/ID) Program to detect, investigate, and eliminate IC/IDs to the MS4. The IC/ID Program must be implemented in accordance with the requirements and performance measures specified in this Order.

ii. As stated in Part VI.A.2 of this Order, each Permittee must have adequate legal authority to prohibit IC/IDs to the MS4 and enable enforcement capabilities to eliminate the source of IC/IDs.

iii. Each Permittee's IC/ID Program shall consist of at least the following major program components:

(1) Procedures for conducting source investigations for IC/IDs

(2) Procedures for eliminating the source of IC/IDs

(3) Procedures for public reporting of illicit discharges

(4) Spill response plan

(5) IC/IDs education and training for Permittee staff

b. Illicit Discharge Source Investigation and Elimination

i. Each Permittee shall develop written procedures for conducting investigations to identify the source of all suspected illicit discharges, including procedures to eliminate the discharge once the source is located.

ii. At a minimum, each Permittee shall initiate an investigation(s) to identify and locate the source within 72 hours of becoming aware of the illicit discharge.

iii. When conducting investigations, each Permittee shall comply with the following:

(1) Illicit discharges suspected of being sanitary sewage and/or significantly contaminated shall be investigated first.

(2) Each Permittee shall track all investigations to document at a minimum the date(s) the illicit discharge was observed; the results of the investigation; any follow-up of the investigation; and the date the investigation was closed.

(3) Each Permittee shall investigate the source of all observed illicit discharges.

iv. When taking corrective action to eliminate illicit discharges, each Permittee shall comply with the following:

(1) If the source of the illicit discharge has been determined to originate within the Permittee's jurisdiction, the Permittee shall immediately notify the responsible party/parties of the problem, and require the responsible party to initiate all necessary corrective actions to eliminate the illicit discharge.

Upon being notified that the discharge has been eliminated, the Permittee shall conduct a follow-up investigation to verify that the discharge has been eliminated and cleaned-up to the satisfaction of the Permittee(s). Each Permittee shall document its follow-up investigation. Each Permittee may seek recovery and remediation costs from responsible parties or require compensation for the cost of all inspection, investigation, cleanup and oversight activities. Resulting enforcement actions shall follow the program's Progressive Enforcement Policy, per Part VI.D.2.

(2) If the source of the illicit discharge has been determined to originate within an upstream jurisdiction, the Permittee shall notify the upstream jurisdiction and the Regional Water Board within 30 days of such determination and provide all of the information collected regarding efforts to identify its source. Each Permittee may seek recovery and remediation costs from responsible parties or require compensation for the cost of all inspection, investigation, cleanup and oversight activities. Resulting enforcement actions shall follow the program's Progressive Enforcement Policy, per Part VI.D.2.

(3) If the source of the illicit discharge cannot be traced to a suspected responsible party, affected Permittees shall implement its spill response plan and then initiate a permanent solution as described in section 10.b.v below.

v. In the event the Permittee is unable to eliminate an ongoing illicit discharge following full execution of its legal authority and in accordance with its Progressive Enforcement Policy, or other circumstances prevent the full elimination of an ongoing illicit discharge, including the inability to find the responsible party/parties, the Permittee shall provide for diversion of the entire flow to the sanitary sewer or provide treatment. In either instance, the Permittee shall notify the Regional Water Board in writing within 30 days of such determination and shall provide a written plan for review and comment that describes the efforts that have been undertaken to eliminate the illicit discharge, a description of the actions to be undertaken, anticipated costs, and a schedule for completion.

c. Identification and Response to Illicit Connections

i. Investigation

Each Permittee, upon discovery or upon receiving a report of a suspected illicit connection, shall initiate an investigation within 21 days, to determine the following: (1) source of the connection, (2) nature and volume of discharge through the connection, and (3) responsible party for the connection.

ii. Elimination

Each Permittee, upon confirmation of an illicit MS4 connection, shall ensure that the connection is:

(1) Permitted or documented, provided the connection will only discharge storm water and non-storm water allowed under this Order or other individual or general NPDES Permits/WDRs, or
(2) Eliminated within 180 days of completion of the investigation, using its formal enforcement authority, if necessary, to eliminate the illicit connection.

iii. Documentation

Formal records must be maintained for all illicit connection investigations and the formal enforcement taken to eliminate illicit connections.

d. Public Reporting of Non-Storm Water Discharges and Spills

i. Each Permittee shall promote, publicize, and facilitate public reporting of illicit discharges or water quality impacts associated with discharges into or from MS4s through a central contact point, including phone numbers and an internet site for complaints and spill reporting. Each Permittee shall also provide the reporting hotline to Permittee staff to leverage the field staff that has direct contact with the MS4 in detecting and eliminating illicit discharges.

ii. Each Permittee shall implement the central point of contact and reporting hotline requirements listed in this part in one or more of the following methods:

(1) By participating in a County-wide sponsored hotline

(2) By participating in one or more Watershed Group sponsored hotlines

(3) Or individually within its own jurisdiction

(4) The LACFCD shall, in collaboration with the County, continue to maintain the 888-CLEAN-LA hotline and internet site to promote, publicize, and facilitate public reporting of illicit discharges or water quality impacts associated with discharges into or from MS4s.

iii. Each Permittee shall ensure that signage adjacent to open channels, as required in Part F.8.h.vi, include information regarding dumping prohibitions and public reporting of illicit discharges.

iv. Each Permittee shall develop and maintain written procedures that document how complaint calls are received, documented, and tracked to ensure that all complaints are adequately addressed. The procedures shall be evaluated to determine whether changes or updates are needed to ensure that the procedures accurately document the methods employed by the Permittee. Any identified changes shall be made to the procedures subsequent to the evaluation.

v. Each Permittee shall maintain documentation of the complaint calls and record the location of the reported spill or IC/ ID and the actions undertaken in response to all IC/ID complaints, including referrals to other agencies.

e. Spill Response Plan

i. Each Permittee shall implement a spill response plan for all sewage and other spills that may discharge into its MS4. The spill response plan shall clearly identify agencies responsible for spill response and cleanup, telephone numbers and e-mail address for contacts, and shall contain at a minimum the following requirements:

(1) Coordination with spill response teams throughout all appropriate departments, programs and agencies so that maximum water quality protection is provided.

(2) Initiate investigation of all public and employee spill complaints within one business day of receiving the complaint to assess validity.

(3) Response to spills for containment within 4 hours of becoming aware of the spill, except where such spills occur on private property, in which case the response should be within 2 hours of gaining legal access to the property.

(4) Spills that may endanger health or the environment shall be reported to appropriate public health agencies and the Office of Emergency Services (OES).

f. Illicit Connection and Illicit Discharge Education and Training

i. Each Permittee must continue to implement a training program regarding the identification of IC/IDs for all municipal field staff, who, as part of their normal job responsibilities (e.g., street sweeping, storm drain maintenance, collection system maintenance, road maintenance), may come into contact with or otherwise observe an illicit discharge or illicit connection to the MS4. Contact information, including the procedure for reporting an illicit discharge, must be readily available to field staff. Training program documents must be available for review by the permitting authority.

ii. Each Permittee shall ensure contractors performing privatized/contracted municipal services such as, but not limited to, storm and/or sanitary sewer system inspection and repair, street sweeping, trash pick-up and disposal, and street and right-of-way construction and repair are trained regarding IC/ID identification and reporting. Permittees may provide training or include contractual requirements for IC/ID identification and reporting training. Outside contractors can self-certify, providing they certify they have received all applicable training required in the Permit and have documentation to that effect.

iii. Each Permittee's training program should address, at a minimum, the following:

(1) IC/ID identification, including definitions and examples,

(2) investigation,

(3) elimination,

(4) cleanup,

(5) reporting, and

(6) documentation.

iv. Each Permittee must create a list of applicable positions and contractors which require IC/ID training and ensure that training is provided at least twice during the term of the Order. Each Permittee must maintain documentation of the training activities.

v. New Permittee staff members must be provided with IC/ID training within 180 days of starting employment.

E. Total Maximum Daily Load Provisions

1. The provisions of this Part VI.E. implement and are consistent with the assumptions and requirements of all waste load allocations (WLAs) established in TMDLs for which some or all of the Permittees in this Order are responsible.

a. Part VI.E of this Order includes provisions that are designed to assure that Permittees achieve WLAs and meet other requirements of TMDLs covering receiving waters impacted by the Permittees' MS4 discharges. TMDL provisions are grouped by WMA (WMA) in Attachments L through R.

b. The Permittees subject to each TMDL are identified in Attachment K.

c. The Permittees shall comply with the applicable water quality-based effluent limitations and/or receiving water limitations contained in Attachments L through R, consistent with the assumptions and requirements of the WLAs established in the TMDLs, including implementation plans and schedules, where provided for in the State adoption and approval of the TMDL (40 CFR §122.44(d)(1)(vii)(B); Cal. Wat. Code §13263(a)).

d. A Permittee may comply with water quality-based effluent limitations and receiving water limitations in Attachments L through R using any lawful means.

2. Compliance Determination

a. General

i. A Permittee shall demonstrate compliance at compliance monitoring points established in each TMDL or, if not specified in the TMDL, at locations identified in an approved TMDL monitoring plan or in accordance with an approved integrated monitoring program per Attachment E, Part VI.C.5 (Integrated Watershed Monitoring and Assessment).

ii. Compliance with water quality-based effluent limitations shall be determined as described in Parts VI.E.2.d and VI.E.2.e, or for trash water quality-based effluent limitations as described in Part VI.E.5.b, or as otherwise set forth in TMDL specific provisions in Attachments L through R.

iii. Pursuant to Part VI.C, a Permittee may, individually or as part of a watershed-based group, develop and submit for approval by the Regional Water Board Executive Officer a Watershed Management Program that addresses all water quality-based effluent limitations and receiving water limitations to which the Permittee is subject pursuant to established TMDLs.

b. Commingled Discharges

i. A number of the TMDLs establish WLAs that are assigned jointly to a group of Permittees whose storm water and/or non-storm water discharges are or may be commingled in the MS4 prior to discharge to the receiving water subject to the TMDL.

ii. In these cases, pursuant to 40 CFR section 122.26(a)(3)(vi), each Permittee is only responsible for discharges from the MS4 for which they are owners and/or operators.

iii. Where Permittees have commingled discharges to the receiving water, compliance at the outfall to the receiving water or in the receiving water shall be determined for the group of Permittees as a whole unless an individual Permittee demonstrates that its discharge did not cause or contribute to the exceedance, pursuant to subpart v. below.

iv. For purposes of compliance determination, each Permittee is responsible for demonstrating that its discharge did not cause or contribute to an exceedance of an applicable water quality-based effluent limitation(s) at the outfall or receiving water limitation(s) in the target receiving water.

v. A Permittee may demonstrate that its discharge did not cause or contribute to an exceedance of an applicable water quality-based effluent limitation or receiving water limitation in any of the following ways:

(1) Demonstrate that there is no discharge from the Permittee's MS4 into the applicable receiving water during the time period subject to the water quality-based effluent limitation and/or receiving water limitation; or

(2) Demonstrate that the discharge from the Permittee's MS4 is controlled to a level that does not exceed the applicable water quality-based effluent limitation; or

(3) For exceedances of bacteria receiving water limitations or water quality-based effluent limitations, demonstrate through a source investigation pursuant to protocols established under California Water Code section 13178 or for exceedances of other receiving water limitations or water quality-based effluent limitations, demonstrate using other accepted source identification protocols, that pollutant sources within the jurisdiction of the Permittee or the Permittee's MS4 have not caused or contributed to the exceedance of the Receiving Water Limitation(s).

c. Receiving Water Limitations Addressed by a TMDL

i. For receiving water limitations in Part V.A. associated with water body-pollutant combinations addressed in a TMDL, Permittees shall achieve compliance with the receiving water limitations in Part V.A. as outlined in this Part VI.E. and Attachments L through R of this Order.

ii. A Permittee's full compliance with the applicable TMDL requirement(s), including compliance schedules, of this Part VI.E. and Attachments L through R constitutes compliance with Part V.A. of this Order for the specific pollutant addressed in the TMDL.

iii. As long as a Permittee is in compliance with the applicable TMDL requirements in a time schedule order (TSO) issued by the Regional Water Board pursuant to California Water Code sections 13300 and 13385(j)(3), it is not the Regional Water Board's intention to take an enforcement action for violations of Part V.A. of this Order for the specific pollutant(s) addressed in the TSO.

d. Interim Water Quality-Based Effluent Limitations and Receiving Water Limitations

i. A Permittee shall be considered in compliance with an applicable interim water quality-based effluent limitation and interim receiving water limitation for a pollutant associated with a specific TMDL if any of the following is demonstrated:

(1) There are no violations of the interim water quality-based effluent limitation for the pollutant associated with a specific TMDL at the Permittee's applicable MS4 outfall(s),[38] including an outfall to the receiving water that collects discharges from multiple Permittees' jurisdictions;

(2) There are no exceedances of the applicable receiving water limitation for the pollutant associated with a specific TMDL in the receiving water(s) at, or downstream of, the Permittee's outfall(s);

(3) There is no direct or indirect discharge from the Permittee's MS4 to the receiving water during the time period subject to the water quality-based effluent limitation and/or receiving water limitation for the pollutant associated with a specific TMDL; or

(4) The Permittee has submitted and is fully implementing an approved Watershed Management Program or EWMP pursuant to Part VI.C.

(a) To be considered fully implementing an approved Watershed Management Program or EWMP, a Permittee must be implementing

[38] An outfall may include a manhole or other point of access to the MS4 at the Permittee's jurisdictional boundary.

all actions consistent with the approved program and applicable compliance schedules, including structural BMPs.

(b) Structural storm water BMPs or systems of BMPs should be designed and maintained to treat storm water runoff from the 85th percentile, 24-hour storm, where feasible and necessary to achieve applicable WQBELs and receiving water limitations, and maintenance records must be up-to-date and available for inspection by the Regional Water Board.

(c) A Permittee that does not implement the Watershed Management Program in accordance with the milestones and compliance schedules shall demonstrate compliance with its interim water quality-based effluent limitations and/or receiving water limitations pursuant to Part VI.E.2.d.i.(1)-(3), above.

(d) Upon notification of a Permittee's intent to develop a WMP or EWMP and prior to approval of its WMP or EWMP, a Permittee's full compliance with all of the following requirements shall constitute a Permittee's compliance with provisions pertaining to interim WQBELs with compliance deadlines occurring prior to approval of a WMP or EWMP. This subdivision (d) shall not apply to interim trash WQBELs.

(1) Provides timely notice of its intent to develop a WMP or EWMP,

(2) Meets all interim and final deadlines for development of a WMP or EWMP,

(3) For the area to be covered by the WMP or EWMP, targets implementation of watershed control measures in its existing storm water management program, including watershed control measures to eliminate non-storm water discharges of pollutants through the MS4 to receiving waters, to address known contributions of pollutants from MS4 discharges that cause or contribute to the impairment(s) addressed by the TMDL(s), and

(4) Receives final approval of its WMP or EWMP within 28 or 40 months, respectively.

e. Final Water Quality-based Effluent Limitations and/or Receiving Water Limitations

i. A Permittee shall be deemed in compliance with an applicable final water quality-based effluent limitation and final receiving water limitation for the pollutant(s) associated with a specific TMDL if any of the following is demonstrated:

(1) There are no violations of the final water quality-based effluent limitation for the specific pollutant at the Permittee's applicable MS4 outfall(s)[39];

(2) There are no exceedances of applicable receiving water limitation for the specific pollutant in the receiving water(s) at, or downstream of, the Permittee's outfall(s);

(3) There is no direct or indirect discharge from the Permittee's MS4 to the receiving water during the time period subject to the water quality-based effluent limitation and/or receiving water limitation for the pollutant(s) associated with a specific TMDL; or

(4) In drainage areas where Permittees are implementing an EWMP, (i) all non-storm water and (ii) all storm water runoff up to and including the volume equivalent to the 85th percentile, 24-hour event is retained for the drainage area tributary to the applicable receiving water. This provision (4) shall not apply to final trash WQBELs.

3. USEPA Established TMDLs

TMDLs established by the USEPA, to which Permittees are subject, do not contain an implementation plan adopted pursuant to California Water Code section 13242. However, USEPA has included implementation recommendations as part of these TMDLs. In lieu of inclusion of numeric water quality based effluent limitations at this time, this Order requires Permittees subject to WLAs in USEPA established TMDLs to propose and implement best management practices (BMPs) that will be effective in achieving compliance with USEPA established numeric WLAs. The Regional Water Board may, at its discretion, revisit this decision within the term of this Order or in a future permit, as more information is developed to support the inclusion of numeric water quality based effluent limitations.

a. Each Permittee shall propose BMPs to achieve the WLAs contained in the applicable USEPA established TMDL(s), and a schedule for implementing the BMPs that is as short as possible, in a Watershed Management Program or EWMP.

b. Each Permittee may either individually submit a Watershed Management Program, or may jointly submit a WMP or EWMP with other Permittees subject to the WLAs contained in the USEPA established TMDL.

c. At a minimum, each Permittee shall include the following information in its Watershed Management Program or EWMP, relevant to each applicable USEPA established TMDL:

i. Available data demonstrating the current quality of the Permittee's MS4 discharge(s) in terms of concentration and/or load of the target pollutant(s) to the receiving waters subject to the TMDL;

[39] Ibid.

ii. A detailed description of BMPs that have been implemented, and/or are currently being implemented by the Permittee to achieve the WLA(s), if any;

iii. A detailed time schedule of specific actions the Permittee will take in order to achieve compliance with the applicable WLA(s);

iv. A demonstration that the time schedule requested is as short as possible, taking into account the time since USEPA establishment of the TMDL, and technological, operation, and economic factors that affect the design, development, and implementation of the control measures that are necessary to comply with the WLA(s);

(1) For the Malibu Creek Nutrient TMDL established by USEPA in 2003, in no case shall the time schedule to achieve the final numeric WLAs exceed five years from the effective date of this Order; and

v. If the requested time schedule exceeds one year, the proposed schedule shall include interim requirements and numeric milestones and the date(s) for their achievement.

d. Each Permittee subject to a WLA in a TMDL established by USEPA shall submit a draft of a Watershed Management Program or EWMP to the Regional Water Board Executive Officer for approval per the schedule Part VI.C.4.

e. If a Permittee does not submit a Watershed Management Program, or the plan is determined to be inadequate by the Regional Water Board Executive Officer and the Permittee does not make the necessary revisions within 90 days of written notification that plan is inadequate, the Permittee shall be required to demonstrate compliance with the numeric WLAs immediately based on monitoring data collected under the MRP (Attachment E) for this Order.

4. State Adopted TMDLs where Final Compliance Deadlines have Passed

a. Permittees shall comply immediately with water quality-based effluent limitations and/or receiving water limitations to implement WLAs in state-adopted TMDLs for which final compliance deadlines have passed pursuant to the TMDL implementation schedule.

b. Where a Permittee believes that additional time to comply with the final water quality-based effluent limitations and/or receiving water limitations is necessary, a Permittee may within 45 days of Order adoption request a time schedule order pursuant to California Water Code section 13300 for the Regional Water Board's consideration.

c. Permittees may either individually request a TSO, or may jointly request a TSO with all Permittees subject to the water quality-based effluent limitations and/or receiving water limitations, to implement the WLAs in the state-adopted TMDL.

d. At a minimum, a request for a time schedule order shall include the following:

i. Data demonstrating the current quality of the MS4 discharge(s) in terms of concentration and/or load of the target pollutant(s) to the receiving waters subject to the TMDL;

ii. A detailed description and chronology of structural controls and source control efforts, since the effective date of the TMDL, to reduce the pollutant load in the MS4 discharges to the receiving waters subject to the TMDL;

iii. Justification of the need for additional time to achieve the water quality-based effluent limitations and/or receiving water limitations;

iv. A detailed time schedule of specific actions the Permittee will take in order to achieve the water quality-based effluent limitations and/or receiving water limitations;

v. A demonstration that the time schedule requested is as short as possible, taking into account the technological, operation, and economic factors that affect the design, development, and implementation of the control measures that are necessary to comply with the effluent limitation(s); and

vi. If the requested time schedule exceeds one year, the proposed schedule shall include interim requirements and the date(s) for their achievement. The interim requirements shall include both of the following:

(1) Effluent limitation(s) for the pollutant(s) of concern; and

(2) Actions and milestones leading to compliance with the effluent limitation(s).

5. Water Quality-Based Effluent Limitations for Trash

Permittees assigned a Waste Load Allocation in a trash TMDL shall comply as set forth below.

a. Effluent Limitations: Permittees shall comply with the interim and final water quality-based effluent limitations for trash set forth in Attachments L through R for the following Trash TMDLs:

i. Lake Elizabeth Trash TMDL (Attachment L)

ii. Santa Monica Bay Nearshore and Offshore Debris TMDL (Attachment M)

iii. Malibu Creek Watershed Trash TMDL (Attachment M)

iv. Ballona Creek Trash TMDL (Attachment M)

v. Machado Lake Trash TMDL (Attachment N)

vi. Los Angeles River Trash TMDL (Attachment O)

vii. Peck Road Park Lake Trash TMDL (Attachment O)

viii. Echo Park Lake Trash TMDL (Attachment O)

ix. Legg Lake Trash TMDL (Attachment O)

b. Compliance

i. Pursuant to California Water Code section 13360(a), Permittees may comply with the trash effluent limitations using any lawful means. Such compliance options are broadly classified as *full capture*, *partial capture, institutional controls,* or *minimum frequency of assessment and collection,* as described below, and any combination of these may be employed to achieve compliance:

(1) Full Capture Systems:

(a) The Basin Plan authorizes the Regional Water Board Executive Officer to certify *full capture systems*, which are systems that meet the operating and performance requirements as described in this Order, and the procedures identified in "Procedures and Requirements for Certification of a Best Management Practice for Trash Control as a Full Capture System."[40]

(b) Permittees are authorized to comply with their effluent limitations through certified *full capture systems* provided the requirements of paragraph (c), immediately below, and any conditions in the certification, continue to be met.

(c) Permittees may comply with their effluent limitations through progressive installation of *full capture systems* throughout their jurisdictional areas until all areas draining to Lake Elizabeth, Santa Monica Bay, Malibu Creek, Ballona Creek, Machado Lake, the Los Angeles River system, Legg Lake, Peck Road Park Lake, and/or Echo Park Lake are addressed. For purposes of this Order, attainment of the effluent limitations shall be conclusively presumed for any drainage area to Lake Elizabeth, Santa Monica Bay, Malibu Creek (and its tributaries), Ballona Creek (and its tributaries), Machado Lake, the Los Angeles River (and its tributaries), Legg Lake, Peck Road Park Lake, and/or Echo Park Lake where certified *full capture systems* treat all drainage from the area, provided that the *full capture systems* are adequately sized and maintained, and that maintenance records are up-to-date and available for inspection by the Regional Water Board.

[40] The Regional Water Board currently recognizes eight *full capture systems*. These are: Vortex Separation Systems (VSS) and seven other Executive Officer certified *full capture systems*, including specific types or designs of trash nets; two gross solids removal devices (GSRDs); catch basin brush inserts and mesh screens; vertical and horizontal trash capture screen inserts; and a connector pipe screen device. See August 3, 2004 Los Angeles Regional Water Quality Control Board Memorandum titled "Procedures and Requirements for Certification of a Best Management Practice for Trash Control as a Full Capture System.

(i) A Permittee shall be deemed in compliance with its final effluent limitation if it demonstrates that all drainage areas under its jurisdiction and/or authority are serviced by appropriate certified *full capture systems* as described in paragraph (1)(c).

(ii) A Permittee shall be deemed in compliance with its interim effluent limitations, where applicable:

1. By demonstrating that *full capture systems* treat the percentage of drainage areas in the watershed that corresponds to the required trash abatement.

2. Alternatively, a Permittee may propose a schedule for installation of *full capture systems* in areas under its jurisdiction and/or authority within a given watershed, targeting first the areas of greatest trash generation, for the Executive Officer's approval. The Executive Officer shall not approve any such schedule that does not result in timely compliance with the final effluent limitations, consistent with the established TMDL implementation schedule and applicable State policies. A Permittee shall be deemed in compliance with its interim effluent limitations provided it is fully in compliance with any such approved schedule.

(2) Partial Capture Devices and Institutional Controls: Permittees may comply with their interim and final effluent limitations through the installation of *partial capture devices* and the application of *institutional controls*.[41]

(a) Trash discharges from areas serviced solely by *partial capture devices* may be estimated based on demonstrated performance of the device(s) in the implementing area.[42] That is, trash reduction is equivalent to the *partial capture devices'* trash removal efficiency multiplied by the percentage of drainage area serviced by the devices.

(b) Except as provided in subdivision (c), immediately below, trash discharges from areas addressed by *institutional controls* and/or *partial capture devices* (where site-specific performance data is not available) shall be calculated using a mass balance approach, based on the daily generation rate (DGR) for a representative area.[43] The DGR shall be determined from direct measurement of trash deposited in the drainage area during any thirty-day period between June 22nd and September 22nd exclusive of rain events[44], and shall be re-calculated every year thereafter unless a less frequent period for recalculation is approved by the Regional Water Board Executive Officer. The DGR

[41] While interim effluent limitations may be complied with using *partial capture devices*, compliance with final effluent limitations cannot be achieved with the exclusive use of *partial capture devices*.
[42] Performance shall be demonstrated under different conditions (e.g. low to high trash loading).
[43] The area(s) should be representative of the land uses and activities within the Permittees' authority and shall be approved by the Executive Officer prior to the 30-day collection period.
[44] Provided no special events are scheduled that may affect the representative nature of that collection period.

shall be calculated as the total amount of trash collected during this period divided by the length of the collection period.

DGR = (Amount of trash collected during a 30-day collection period[45] / (30 days)

The DGR for the applicable area under the Permittees' jurisdiction and/or authority shall be extrapolated from that of the representative drainage area(s). A mass balance equation shall be used to estimate the amount of trash discharged during a storm event.[46] The *Storm Event Trash Discharge* for a given rain event in the Permittee's drainage area shall be calculated by multiplying the number of days since the last street sweeping by the DGR and subtracting the amount of any trash recovered in the catch basins.[47] For each day of a storm event that generates precipitation greater than 0.25 inch, the Permittee shall calculate a *Storm Event Trash Discharge*.

Storm Event Trash Discharge = [(Days since last street sweeping*DGR)] – [Amount of trash recovered from catch basins][48]

The sum of the *Storm Event Trash Discharges* for the storm year shall be the Permittee's calculated annual trash discharge.

Total Storm Year Trash Discharge = ∑Storm Event Trash Discharges from Drainage Area

(c) The Executive Officer may approve alternative compliance monitoring approaches for calculating total storm year trash discharge, upon finding that the program will provide a scientifically-based estimate of the amount of trash discharged from the Permittee's MS4.

(3) Combined Compliance Approaches:

Permittees may comply with their interim and final effluent limitations through a combination of *full capture systems*, *partial capture devices*, and *institutional controls*. Where a Permittee relies on a combination of approaches, it shall demonstrate compliance with the interim and final effluent limitations as specified in (1)(c) in areas where *full capture systems* are installed and as specified in (2)(a) or (2)(b), as appropriate, in areas where *partial capture devices* and *institutional controls* are applied.

(4) Minimum Frequency of Assessment and Collection Approach:

If allowed in a trash TMDL and approved by the Executive Officer, a Permittee may alternatively comply with its final effluent limitations by

[45] Between June 22nd and September 22nd
[46] Amount of trash shall refer to the uncompressed volume (in gallons) or drip-dry weight (in pounds) of trash collected.
[47] Any negative values shall be considered to represent a zero discharge.
[48] When more than one storm event occurs prior to the next street sweeping the discharge shall be calculated from the date of the last assessment.

implementing a program for *minimum frequency of assessment and collection* (MFAC) in conjunction with BMPs. To the satisfaction of the Executive Officer, the MFAC/BMP program must meet the following criteria:

(a) The MFAC/BMP Program includes an initial minimum frequency of trash assessment and collection and suite of structural and/or nonstructural BMPs. The MFAC/BMP program shall include collection and disposal of all trash found in the receiving water and shoreline. Permittees shall implement an initial suite of BMPs based on current trash management practices in land areas that are found to be sources of trash to the water body. The initial minimum frequency of trash assessment and collection shall be set as specified in the following TMDLs:

  (i) Malibu Creek Watershed Trash TMDL

  (ii) Machado Lake Trash TMDL

  (iii) Legg Lake Trash TMDL

(b) The MFAC/BMP Program includes reasonable assurances that it will be implemented by the responsible Permittees.

(c) MFAC protocols may be based on SWAMP protocols for rapid trash assessment, or alternative protocols proposed by Permittees and approved by the Regional Water Board Executive Officer.

(d) Implementation of the MFAC/BMP program should include a Health and Safety Program to protect personnel. The MFAC/BMP program shall not require Permittees to access and collect trash from areas where personnel are prohibited.

(e) The Regional Water Board Executive Officer may approve or require a revised assessment and collection frequency and definition of the critical conditions under the MFAC:

  (i) To prevent trash from accumulating in deleterious amounts that cause nuisance or adversely affect beneficial uses between collections;

  (ii) To reflect the results of trash assessment and collection;

  (iii) If the amount of trash collected does not show a decreasing trend, where necessary, such that a shorter interval between collections is warranted; or

  (iv) If the amount of trash collected is decreasing such that a longer interval between collections is warranted.

(f) At the end of the implementation period, a revised MFAC/BMP program may be required if the Regional Water Board Executive Officer determines that the amount of trash accumulating between

collections is causing nuisance or otherwise adversely affecting beneficial uses.

(g) With regard to (4)(e)(i), (4)(e)(ii), or (4)(e)(iii), above, the Regional Water Board Executive Officer is authorized to allow responsible Permittees to implement additional structural or non-structural BMPs in lieu of modifying the monitoring frequency.

ii. If a Permittee is not in compliance with its applicable interim and/or final effluent limitation as identified in Attachments L through R, then it shall be in violation of this Order.

(1) A Permittee relying on *partial capture devices* and/or *institutional controls* that has violated its interim and/or final effluent limitation(s) shall be presumed to have violated the applicable limitation for each day of each storm event that generated precipitation greater than 0.25 inch during the applicable storm year, except those storm days on which it establishes that its cumulative Storm Event Trash Discharges has not exceeded the applicable effluent limitation.

(2) If a Permittee relying on *full capture systems* has failed to demonstrate that the *full capture systems* for any drainage area are adequately sized and maintained, and that maintenance records are up-to-date and available for inspection by the Regional Water Board, and that it is in compliance with any conditions of its certification, shall be presumed to have discharged trash in an amount that corresponds to the percentage of the baseline waste load allocation represented by the drainage area in question.

(a) A Permittee may overcome this presumption by demonstrating (using any of the methods authorized in Part VI.E.5.b) that the actual or calculated discharge for that drainage area is in compliance with the applicable interim or final effluent limitation.

iii. Each Permittee shall be held liable for violations of the effluent limitations assigned to their area. If a Permittee's compliance strategy includes *full* or *partial capture devices* and it chooses to install a full or partial capture device in the MS4 physical infrastructure of another public entity, it is responsible for obtaining all necessary permits to do so. If a Permittee believes it is unable to obtain the permits needed to install a full capture or partial capture device within another Permittee's MS4 physical infrastructure, either Permittee may request the Executive Officer to hold a conference with the Permittees. Nothing in this Order shall affect the right of that public entity or a Permittee to seek indemnity or other recourse from the other as they deem appropriate. Nothing in this subsection shall be construed as relieving a Permittee of any liability that the Permittee would otherwise have under this Order.

c. Monitoring and Reporting Requirements (pursuant to California Water Code section 13383)

i. Each Permittee shall submit a TMDL Compliance Report as part of its Annual Report detailing compliance with the applicable interim and/or final effluent limitations. Reporting shall include the information specified below. The report shall be submitted on the reporting form specified by the Regional Water Board Executive Officer. The report shall be signed under penalty of perjury by the Permittee's principal executive officer or ranking elected official or duly authorized representative of the officer, consistent with Part V.B of Attachment D (Standard Provisions), who is responsible for ensuring compliance with this Order. Each Permittee shall be charged with and shall demonstrate compliance with its applicable effluent limitations beginning with its December 15, 2013, TMDL Compliance Report.

(1) Reporting Compliance based on Full Capture Systems: Permittees shall provide information on the number and location of full capture installations, the sizing of each full capture installation, the drainage areas addressed by these installations, and compliance with the applicable interim or final effluent limitation, in its TMDL Compliance Report. The Los Angeles Water Board will periodically audit sizing, performance, and other data to validate that a system satisfies the criteria established for a *full capture system* and any conditions established by the Regional Water Board Executive Officer in the certification.

(2) Reporting Compliance based on Partial Capture Systems and/or Institutional Controls:

(a) Using Performance Data Specific to the Permittee's Area: In its TMDL Compliance Report, a Permittee shall provide: (i) site-specific performance data for the applicable device(s); (ii) information on the number and location of such installations, and the drainage areas addressed by these installations; and (iii) calculated compliance with the applicable effluent limitations.

(b) Using Direct Measurement of Trash Discharge: Permittees shall provide an accounting of DGR and trash removal via street sweeping, catch basin clean outs, etc., in a database to facilitate the calculation of discharge for each rain event. The database shall be maintained and provided to the Regional Water Board for inspection upon request. In its TMDL Compliance Report, a Permittee shall provide information on its annual DGR, calculated storm year discharge, and compliance with the applicable effluent limitation.

(3) Reporting Compliance based on Combined Compliance Approaches:

Permittees shall provide the information specified in Part VI.E.5.c.i(1) for areas where *full capture systems* are installed and that are specified in Part VI.E.5.c.i(2)(a) or (b), as appropriate, for areas where *partial capture devices* and *institutional controls* are applied. In its TMDL Compliance Report, a Permittee shall also provide information on compliance with the applicable effluent limitation based on the combined compliance approaches.

(4) Reporting Compliance based on an MFAC/BMP Approach:

The MFAC/BMP Program includes a Trash Monitoring and Reporting Plan, and a requirement that the responsible Permittees will self-report any non-compliance with its provisions. The results and report of the Trash Monitoring and Reporting Plan must be submitted to Regional Water Board with the Permittee's Annual Report.

ii. Violation of the reporting requirements of this Part shall be punishable pursuant to, inter alia, California Water Code section 13385, subdivisions (a)(3) and (h)(1), and/or section 13385.1.

ATTACHMENT A – DEFINITIONS

The following are definitions for terms in this Order:

Adverse Impact
A detrimental effect upon water quality or beneficial uses caused by a discharge or loading of a pollutant or pollutants.

Anti-degradation Policies
Laws, policies and regulations set forth and state and federal statutes and regulations e.g., *Statement of Policy with Respect to Maintaining High Quality Water in California,* State Board Resolution No. 68-16; 40 CFR section 131.12.

Applicable Standards and Limitations
All State, interstate, and federal standards are limitations to which a "discharge" or a related activity is subject under the CWA, including effluent limitations, water quality standards, standards of performance, toxic effluent standards or prohibitions, "best management practices," and pretreatment standards under sections 301, 302, 303, 304, 306, 307, 308, 403 and 404 of CWA.

Areas of Special Biological Significance (ASBS)
All those areas of this state as ASBS, listed specifically within the California Ocean Plan or so designated by the State Board which, among other areas, includes the area from Mugu Lagoon to Latigo Point: Oceanwater within a line originating from Laguna Point at 34° 5' 40" north, 119° 6'30" west, thence southeasterly following the mean high tideline to a point at Latigo Point defined by the intersection of the mean high tide line and a line extending due south of Benchmark 24; thence due south to a distance of 1000 feet offshore or to the 100 foot isobaths, whichever distance is greater; thence northwesterly following the 100 foot isobaths or maintaining a 1,000-foot distance from shore, whichever maintains the greater distance from shore, to a point lying due south of Laguna Point, thence due north to Laguna Point.

Arithmetic Mean (μ)
Also called the average, is the sum of measured values divided by the number of samples. For ambient water concentrations, the arithmetic mean is calculated as follows:

$$\text{Arithmetic mean} = \mu = \Sigma x / n$$

where:
Σx is the sum of the measured ambient water concentrations, and n is the number of samples.

Authorized Discharge
Any discharge that is authorized pursuant to an NPDES permit or meets the conditions set forth in this Order.

Authorized Non-Storm Water Discharge
Authorized non-storm water discharges are discharges that are not composed entirely of storm water and that are either: (1) separately regulated by an individual or general NPDES permit and allowed to discharge to the MS4 when in compliance with all NPDES permit conditions; (2)

authorized by USEPA[1] pursuant to sections 104(a) or 104(b) of CERCLA that either (i) will comply with water quality standards as applicable or relevant and appropriate requirements ("ARARs") under section 121(d)(2) of CERCLA or (ii) are subject to (a) a written waiver of ARARs by USEPA pursuant to section 121(d)(4) of CERCLA or (b) a written determination by USEPA that compliance with ARARs is not practicable considering the exigencies of the situation, pursuant to 40 CFR section 300.415(j); or (3) necessary for emergency responses purposes, including flows from emergency fire fighting activities.

Automotive Service Facilities
A facility that is categorized in any one of the following Standard Industrial Classification (SIC) and North American Industry Classification System (NAICS) codes. For inspection purposes, Permittees need not inspect facilities with SIC codes 5013, 5014, 5541, 5511, provided that these facilities have no outside activities or materials that may be exposed to storm water.

Average Monthly Effluent Limitation (AMEL)
The highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

Bacteria Total Maximum Daily Load (TMDL) Dry Weather
Defined in the Bacteria TMDLs as those days with less than 0.1 inch of rainfall and those days occurring more than 3 days after a rain.

Bacteria Total Maximum Daily Load (TMDL) Wet Weather
Defined in the Bacteria TMDLs as a day with 0.1 inch or more of rain and 3 days following the rain event.

Baseline Waste Load Allocation
The Waste Load Allocation assigned to a Permittee before reductions are required. The progressive reductions in the Waste Load Allocations are based on a percentage of the Baseline Waste Load Allocation. The Baseline Waste Load Allocation for each jurisdiction was calculated based on the annual average amount of trash discharged to the storm drain system from a representative sampling of land use areas, as determined during the Baseline Monitoring Program. The Baseline Waste Load Allocations are incorporated into the Basin Plan at Table 7-2.2.

Basin Plan
The Water Quality Control Plan, Los Angeles Region, Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties, adopted by the Regional Water Board on June 13, 1994 and subsequent amendments.

Beneficial Uses
The existing or potential uses of receiving waters in the permit area as designated by the Regional Water Board in the Basin Plan.

[1] These typically include short-term, high volume discharges resulting from the development or redevelopment of groundwater extraction wells, or USEPA or State-required compliance testing of potable water treatment plants, as part of a USEPA authorized groundwater remediation action under CERCLA.

Best Management Practices (BMPs)
BMPs are practices or physical devices or systems designed to prevent or reduce pollutant loading from storm water or non-storm water discharges to receiving waters, or designed to reduce the volume of storm water or non-storm water discharged to the receiving water.

Bioaccumulative
Those substances taken up by an organism from its surrounding medium through gill membranes, epithelial tissue, or from food and subsequently concentrated and retained in the body of the organism.

Biofiltration
A LID BMP that reduces storm water pollutant discharges by intercepting rainfall on vegetative canopy, and through incidental infiltration and/or evapotranspiration, and filtration. As described in the *Ventura County Technical Guidance Manual*, studies have demonstrated that biofiltration of 1.5 times the storm water quality design volume (SWQDv) provides approximately equivalent or greater reductions in pollutant loading when compared to bioretention or infiltration of the SWQDv.[2] Incidental infiltration is an important factor in achieving the required pollutant load reduction. Therefore, the term "biofiltration" as used in this Order is defined to include only systems designed to facilitate incidental infiltration or achieve the equivalent pollutant reduction as biofiltration BMPs with an underdrain (subject to Executive Officer approval). Biofiltration BMPs include bioretention systems with an underdrain and bioswales.

Bioretention
A LID BMP that reduces storm water runoff by intercepting rainfall on vegetative canopy, and through evapotranspiration and infiltration. The bioretention system typically includes a minimum 2-foot top layer of a specified soil and compost mixture underlain by a gravel-filled temporary storage pit dug into the *in-situ* soil. As defined in this Order, a bioretention BMP may be designed with an overflow drain, but may not include an underdrain. When a bioretention BMP is designed or constructed with an underdrain it is regulated in this Order as biofiltration.

Bioswale
A LID BMP consisting of a shallow channel lined with grass or other dense, low-growing vegetation. Bioswales are designed to collect storm water runoff and to achieve a uniform sheet flow through the dense vegetation for a period of several minutes.

Carcinogenic
Pollutants are substances that are known to cause cancer in living organisms.

Coefficient of Variation (CV)
CV is a measure of the data variability and is calculated as the estimated standard deviation divided by the arithmetic mean of the observed values.

[2] Geosyntec Consultants and Larry Walker Associates. 2011. *Ventura County Technical Guidance Manual for Stormwater Quality and Control Measures, Manual Update 2011. Appendix D.* Prepared for the Ventura Countywide Stormwater Quality Management Program. July 13, 2011. pp. D-6 – D-15.

Commercial Development
Any development on private land that is not heavy industrial or residential. The category includes, but is not limited to: hospitals, laboratories and other medical facilities, educational institutions, recreational facilities, plant nurseries, car wash facilities; mini-malls and other business complexes, shopping malls, hotels, office buildings, public warehouses and other light industrial complexes.

Commercial Malls
Any development on private land comprised of one or more buildings forming a complex of stores which sells various merchandise, with interconnecting walkways enabling visitors to easily walk from store to store, along with parking area(s). A commercial mall includes, but is not limited to: mini-malls, strip malls, other retail complexes, and enclosed shopping malls or shopping centers.

Conditionally Exempt Essential Non-Storm Water Discharge
Conditionally exempt essential non-storm water discharges are certain categories of discharges that are not composed entirely of storm water and that are allowed by the Regional Water Board to discharge to the MS4, if in compliance with all specified requirements; are not otherwise regulated by an individual or general NPDES permit; and are essential public services that are directly or indirectly required by other State or federal statute and/or regulation. These include non-storm water discharges from drinking water supplier distribution system releases and non-emergency fire fighting activities. Conditionally exempt essential non-storm water discharges may contain minimal amounts of pollutants, however, when in compliance with industry standard BMPs and control measures, do not result in significant environmental effects. (See 55 Fed. Reg. 47990, 47995 (Nov. 16, 1990)).

Conditionally Exempt Non-Storm Water Discharge
Conditionally exempt non-storm water discharges are certain categories of discharges that are not composed entirely of storm water and that are either not sources of pollutants or may contain only minimal amounts of pollutants and when in compliance with specified BMPs do not result in significant environmental effects. (See 55 Fed. Reg. 47990, 47995 (Nov. 16, 1990)).

Construction Activity
Construction activity includes any construction or demolition activity, clearing, grading, grubbing, or excavation or any other activity that results in land disturbance. Construction does not include emergency construction activities required to immediately protect public health and safety or routine maintenance activities required to maintain the integrity of structures by performing minor repair and restoration work, maintain the original line and grade, hydraulic capacity, or original purposes of the facility. See “Routine Maintenance” definition for further explanation. Where clearing, grading or excavating of underlying soil takes place during a repaving operation, State General Construction Permit coverage is required if more than one acre is disturbed or the activities are part of a larger plan.

Control
To minimize, reduce, eliminate, or prohibit by technological, legal, contractual or other means, the discharge of pollutants from an activity or activities.

Daily Discharge
Daily Discharge is defined as either: (1) the total mass of the constituent discharged over the calendar day (12:00 am through 11:59 pm) or any 24-hour period that reasonably represents a calendar day for purposes of sampling (as specified in the permit), for a constituent with limitations expressed in units of mass or; (2) the unweighted arithmetic mean measurement of the constituent over the day for a constituent with limitations expressed in other units of measurement (e.g., concentration).

The daily discharge may be determined by the analytical results of a composite sample taken over the course of one day (a calendar day or other 24-hour period defined as a day) or by the arithmetic mean of analytical results from one or more grab samples taken over the course of the day.

For composite sampling, if 1 day is defined as a 24-hour period other than a calendar day, the analytical result for the 24-hour period will be considered as the result for the calendar day in which the 24-hour period ends.

Daily Generation Rate (DGR)
The estimated amount of trash deposited within a representative drainage area during a 24-hour period, derived from the amount of trash collected from streets and catch basins in the area over a 30-day period.

Dechlorinated/Debrominated Swimming Pool Discharge
Swimming pool discharges which have no measurable chlorine or bromine and do not contain any detergents, wastes, or additional chemicals not typically found in swimming pool water. The term does not include swimming pool filter backwash.

Detected, but Not Quantified (DNQ)
DNQ are those sample results less than the RL, but greater than or equal to the laboratory's MDL.

Development
Any construction, rehabilitation, redevelopment or reconstruction of any public or private residential project (whether single-family, multi-unit or planned unit development); industrial, commercial, retail and other non-residential projects, including public agency projects; or mass grading for future construction. It does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of facility, nor does it include emergency construction activities required to immediately protect public health and safety.

Directly Adjacent
Situated within 200 feet of the contiguous zone required for the continued maintenance, function, and structural stability of the environmentally sensitive area.

Director
The Director of a municipality and Person(s) designated by and under the Director's instruction and supervision.

Discharge
When used without qualification the "discharge of a pollutant."

Discharging Directly
Outflow from a drainage conveyance system that is composed entirely or predominantly of flows from the subject, property, development, subdivision, or industrial facility, and not commingled with the flows from adjacent lands.

Discharge of a Pollutant
Any addition of any "pollutant" or combination of pollutants to "waters of the United States" from any "point source" or, any addition of any pollutant or combination of pollutants to the waters of the "contiguous zone" or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation. The term discharge includes additions of pollutants into waters of the United States from: surface runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a State, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works.

Disturbed Area
An area that is altered as a result of clearing, grading, and/or excavation.

Drinking Water Supplier Distribution Systems Releases
Sources of flows from drinking water supplier storage, supply and distribution systems including flows from system failures, pressure releases, system maintenance, distribution line testing, fire hydrant flow testing; and flushing and dewatering of pipes, reservoirs, vaults, and minor non-invasive well maintenance activities not involving chemical addition(s). It does not include wastewater discharges from activities that occur at wellheads, such as well construction, well development (i.e., aquifer pumping tests, well purging, etc.), or major well maintenance. For the purposes of this Order, drinking water supplier distribution system releases include treated and raw water (from raw water pipelines, reservoirs, storage tanks, etc.) that are dedicated for drinking water supply.

Effective Impervious Area (EIA)
EIA is the portion of the surface area that is hydrologically connected to a drainage system via a hardened conveyance or impervious surface without any intervening median to mitigate the flow volume.

Effluent Concentration Allowance (ECA)
ECA is a value derived from the water quality criterion/objective, dilution credit, and ambient background concentration that is used, in conjunction with the coefficient of variation for the effluent monitoring data, to calculate a long-term average (LTA) discharge concentration. The ECA has the same meaning as waste load allocation (WLA) as used in USEPA guidance (Technical Support Document For Water Quality-based Toxics Control, March 1991, second printing, EPA/505/2-90-001).

Effluent Limitation
Any restriction imposed on quantities, discharge rates, and concentrations of pollutants, which are discharged from point sources to waters of the U.S. (40 CFR § 122.2).

Enclosed Bays
Enclosed Bays means indentations along the coast that enclose an area of oceanic water within distinct headlands or harbor works. Enclosed bays include all bays where the narrowest distance between the headlands or outermost harbor works is less than 75 percent of the greatest dimension of the enclosed portion of the bay. Enclosed bays include, but are not limited to, Humboldt Bay, Bodega Harbor, Tomales Bay, Drake's Estero, San Francisco Bay, Morro Bay, Los Angeles-Long Beach Harbor, Upper and Lower Newport Bay, Mission Bay, and San Diego Bay. Enclosed bays do not include inland surface waters or ocean waters.

Environmentally Sensitive Areas (ESAs)
An area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which would be easily disturbed or degraded by human activities and developments (California Public Resources Code § 30107.5). Areas subject to storm water mitigation requirements are: areas designated as Significant Ecological Areas by the County of Los Angeles (Los Angeles County Significant Areas Study, Los Angeles County Department of Regional Planning (1976) and amendments); an area designated as a Significant Natural Area by the California Department of Fish and Game's Significant Natural Areas Program, provided that area has been field verified by the Department of Fish and Game; an area listed in the Basin Plan as supporting the "Rare, Threatened, or Endangered Species (RARE)" beneficial use; and an area identified by a Permittee as environmentally sensitive.

Estimated Chemical Concentration
The estimated chemical concentration that results from the confirmed detection of the substance by the analytical method below the ML value.

Estuaries
Estuaries means waters, including coastal lagoons, located at the mouths of streams that serve as areas of mixing for fresh and ocean waters. Coastal lagoons and mouths of streams that are temporarily separated from the ocean by sandbars shall be considered estuaries. Estuarine waters shall be considered to extend from a bay or the open ocean to a point upstream where there is no significant mixing of fresh water and seawater. Estuarine waters included, but are not limited to, the Sacramento-San Joaquin Delta, as defined in California Water Code section 12220, Suisun Bay, Carquinez Strait downstream to the Carquinez Bridge, and appropriate areas of the Smith, Mad, Eel, Noyo, Russian, Klamath, San Diego, and Otay rivers. Estuaries do not include inland surface waters or ocean waters.

Existing Discharger
Any discharger that is not a new discharger. An existing discharger includes an "increasing discharger" (i.e., any existing facility with treatment systems in place for its current discharge that is or will be expanding, upgrading, or modifying its permitted discharge after the effective date of this Order).

Flow-through treatment BMPs
Flow-through treatment BMPs include modular, vault type "high flow biotreatment" devices contained within an impervious vault with an underdrain or designed with an impervious liner and an underdrain.

Full Capture System
Any single device or series of devices, certified by the Executive Officer, that traps all particles retained by a 5 mm mesh screen and has a design treatment capacity of not less than the peak flow rate Q resulting from a one-year, one-hour storm in the sub-drainage area. The Rational Equation is used to compute the peak flow rate:

$$Q = C \times I \times A,$$

Where:
Q = design flow rate (cubic feet per second, cfs);
C = runoff coefficient (dimensionless);
I = design rainfall intensity (inches per hour, as determined per the Los Angeles County rainfall isohyetal maps relevant to the Los Angeles River watershed), and
A = sub-drainage area (acres).

General Construction Activities Storm Water Permit (GCASP)
The general NPDES permit adopted by the State Board which authorizes the discharge of storm water from construction activities under certain conditions.

General Industrial Activities Storm Water Permit (GIASP)
The general NPDES permit adopted by the State Board which authorizes the discharge of storm water from certain industrial activities under certain conditions.

Green Roof
A LID BMP using planter boxes and vegetation to intercept rainfall on the roof surface. Rainfall is intercepted by vegetation leaves and through evapotranspiration. Green roofs may be designed as either a bioretention BMP or as a biofiltration BMP. To receive credit as a bioretention BMP, the green roof system planting medium shall be of sufficient depth to provide capacity within the pore space volume to contain the design storm depth and may not be designed or constructed with an underdrain.

Hillside
Property located in an area with known erosive soil conditions, where the development contemplates grading on any natural slope that is 25% or greater and where grading contemplates cut or fill slopes.

Hydrologic Unit Code (HUC)
A standardized watershed classification system in which each hydrologic unit is identified by a unique hydrologic unit code (HUC). The HUC may consist of an eight (8) to twelve (12) digit number. The 8-digit HUC identifies an area based on four levels of classification: region, sub-region, hydrologic basin, and hydrologic sub-basin. The Watershed Boundary Dataset includes the 12-digit HUC delineation, which further divides each hydrologic unit into watersheds and sub-watersheds based on scientific information and not administrative boundaries. The Watershed Boundary Dataset is the highest resolution and the most detailed

delineation of the watershed boundaries. The mapping precision has been improved to a scale of 1:24,000.

Illicit Connection
Any man-made conveyance that is connected to the storm drain system without a permit, excluding roof drains and other similar type connections. Examples include channels, pipelines, conduits, inlets, or outlets that are connected directly to the storm drain system.

Illicit Discharge
Any discharge into the MS4 or from the MS4 into a receiving water that is prohibited under local, state, or federal statutes, ordinances, codes, or regulations. The term illicit discharge includes any non-storm water discharge, except authorized non-storm water discharges; conditionally exempt non-storm water discharges; and non-storm water discharges resulting from natural flows specifically identified in Part III.A.1.d.

Illicit Disposal
Any disposal, either intentionally or unintentionally, of material(s) or waste(s) that can pollute storm water.

Improved drainage system
An improved drainage system is a drainage system that has been channelized or armored. The clearing or dredging of a natural drainage system does not cause the system to be classified as an improved drainage system.

Industrial/Commercial Facility
Any facility involved and/or used in the production, manufacture, storage, transportation, distribution, exchange or sale of goods and/or commodities, and any facility involved and/or used in providing professional and non-professional services. This category of facilities includes, but is not limited to, any facility defined by either the Standard Industrial Classifications (SIC) or the North American Industry Classification System (NAICS). Facility ownership (federal, state, municipal, private) and profit motive of the facility are not factors in this definition.

Industrial Park
A land development that is set aside for industrial development. Industrial parks are usually located close to transport facilities, especially where more than one transport modalities coincide: highways, railroads, airports, and navigable rivers. It includes office parks, which have offices and light industry.

Infiltration BMP
A LID BMP that reduces storm water runoff by capturing and infiltrating the runoff into in-situ soils or amended on-site soils. Examples of infiltration BMPs include infiltration basins, dry wells, and pervious pavement.[3]

Inland Surface Waters
All surface waters of the State that do not include the ocean, enclosed bays, or estuaries.

[3] Some types of infiltration BMPs such as dry wells, may meet the definition of a Class V, deep well injection facility and may be subject to permitting under U.S. EPA requirements.

Inspection
Entry and the conduct of an on-site review of a facility and its operations, at reasonable times, to determine compliance with specific municipal or other legal requirements. The steps involved in performing an inspection, include, but are not limited to:

1. Pre-inspection documentation research.;
2. Request for entry;
3. Interview of facility personnel;
4. Facility walk-through.
5. Visual observation of the condition of facility premises;
6. Examination and copying of records as required;
7. Sample collection (if necessary or required);
8. Exit conference (to discuss preliminary evaluation); and,
9. Report preparation, and if appropriate, recommendations for coming into compliance.

In the case of restaurants, a Permittee may conduct an inspection from the curbside, provided that such "curbside" inspection provides the Permittee with adequate information to determine an operator's compliance with BMPs that must be implemented per requirements of this Order, Regional Water Board Resolution No. 98-08, County and municipal ordinances, and the SQMP.

Instantaneous Maximum Effluent Limitation
The highest allowable value for any single grab sample or aliquot (i.e., each grab sample or aliquot is independently compared to the instantaneous maximum limitation).

Instantaneous Minimum Effluent Limitation
The lowest allowable value for any single grab sample or aliquot (i.e., each grab sample or aliquot is independently compared to the instantaneous minimum limitation).

Institutional Controls
Programmatic trash control measures that do not require construction or structural modifications to the MS4. Examples include street sweeping, public education, and clean out of catch basins that discharge to storm drains.

Integrated Pest Management (IPM) is an ecosystem-based strategy that focuses on long-term prevention of pests or their damage through a combination of techniques such as biological control, habitat manipulation, modification of cultural practices, and use of resistant varieties.

Large Municipal Separate Storm Sewer System (MS4)
All MS4s that serve a population greater than 250,000 (1990 Census) as defined in 40 CFR 122.26 (b)(4). The Regional Water Board designated Los Angeles County as a large MS4 in 1990, based on: (i) the U.S. Census Bureau 1990 population count of 8.9 million, and (ii) the interconnectivity of the MS4s in the incorporated and unincorporated areas within the County.

Local SWPPP
The Storm Water Pollution Prevention Plan required by the local agency for a project that disturbs one or more acres of land.

Low Impact Development (LID)
LID consists of building and landscape features designed to retain or filter storm water runoff.

Major Outfall
Major municipal separate storm sewer outfall (or ‘‘major outfall’’) means a municipal separate storm sewer outfall that discharges from a single pipe with an inside diameter of 36 inches or more or its equivalent (discharge from a single conveyance other than circular pipe which is associated with a drainage area of more than 50 acres); or for municipal separate storm sewers that receive storm water from lands zoned for industrial activity (based on comprehensive zoning plans or the equivalent), an outfall that discharges from a single pipe with an inside diameter of 12 inches or more or from its equivalent (discharge from other than a circular pipe associated with a drainage area of 2 acres or more). (40 CFR § 122.26(b)(5))

Maximum Daily Effluent Limitation (MDEL)
The highest allowable daily discharge of a pollutant, over a calendar day (or 24-hour period). For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the arithmetic mean measurement of the pollutant over the day.

Maximum Extent Practicable (MEP)
In selecting BMPs which will achieve MEP, it is important to remember that municipalities will be responsible to reduce the discharge of pollutants in storm water to the maximum extent practicable. This means choosing effective BMPs, and rejecting applicable BMPs only where other effective BMPs will serve the same purpose, the BMPs would not be technically feasible, or the cost would be prohibitive. The following factors may be useful to consider:

1. Effectiveness: Will the BMP address a pollutant of concern?
2. Regulatory Compliance: Is the BMP in compliance with storm water regulations as well as other environmental regulations?
3. Public acceptance: Does the BMP have public support?
4. Cost: Will the cost of implementing the BMP have a reasonable relationship to the pollution control benefits to be achieved?
5. Technical Feasibility: Is the BMP technically feasible considering soils, geography, water resources, etc.?

After selecting a menu of BMPs, it is of course the responsibility of the discharger to insure that all BMPs are implemented.

Median
The middle measurement in a set of data. The median of a set of data is found by first arranging the measurements in order of magnitude (either increasing or decreasing order). If the number of measurements (n) is odd, then the median = $X_{(n+1)/2}$. If n is even, then the median = $(X_{n/2} + X_{(n/2)+1})/2$ (i.e., the midpoint between the $n/2$ and $n/2+1$).

Method Detection Limit (MDL)
MDL is the minimum concentration of a substance that can be measured and reported with 99 percent confidence that the analyte concentration is greater than zero, as defined in 40 CFR Part 136, Attachment B (revised as of July 3, 1999).

Minimum Level (ML)
ML is the concentration at which the entire analytical system must give a recognizable signal and acceptable calibration point. The ML is the concentration in a sample that is equivalent to the 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.

Municipal Separate Storm Sewer System (MS4)
A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains):

(i) Owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States;

(ii) Designed or used for collecting or conveying storm water;

(iii) Which is not a combined sewer; and

(iv) Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR § 122.2.

(40 CFR § 122.26(b)(8))

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 CWA §307, 402, 318, and 405. The term includes an "approved program."

Natural Drainage System
A natural drainage system is a drainage system that has not been improved (e.g., channelized or armored). The clearing or dredging of a natural drainage system does not cause the system to be classified as an improved drainage system.

New Development
Land disturbing activities; structural development, including construction or installation of a building or structure, creation of impervious surfaces; and land subdivision.

Non-Storm Water Discharge
Any discharge into the MS4 or from the MS4 into a receiving water that is not composed entirely of storm water.

Not Detected (ND)
Sample results which are less than the laboratory's MDL.

Nuisance
Anything that meets all of the following requirements: (1) is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property; (2) affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.; (3) occurs during, or as a result of, the treatment or disposal of wastes.

Ocean Waters
The territorial marine waters of the State as defined by California law to the extent these waters are outside of enclosed bays, estuaries, and coastal lagoons. Discharges to ocean waters are regulated in accordance with the State Water Board's California Ocean Plan.

Outfall
A point source as defined by 40 CFR 122.2 at the point where a municipal separate storm sewer discharges to waters of the United States and does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels or other conveyances with connect segments of the same stream or other waters of the United Sates and are used to convey waters of the United States. (40 CFR § 122.26(b)(9))

Parking Lot
Land area or facility for the parking or storage of motor vehicles used for businesses, commerce, industry, or personal use, with a lot size of 5,000 square feet or more of surface area, or with 25 or more parking spaces.

Partial Capture Device
Any structural trash control device that has not been certified by the Executive Officer as meeting the "full capture" performance requirements.

Permittee(s)
Co-Permittees and any agency named in this Order as being responsible for permit conditions within its jurisdiction. Permittees to this Order include the Los Angeles County Flood Control District, Los Angeles County, and the cities of Agoura Hills, Alhambra, Arcadia, Artesia, Azusa, Baldwin Park, Bellflower, Bell Gardens, Beverly Hills, Bradbury, Burbank, Calabasas, Carson, Cerritos, Claremont, Commerce, Compton, Covina, Cudahy, Culver City, Diamond Bar, Downey, Duarte, El Monte, El Segundo, Gardena, Glendale, Glendora, Hawaiian Gardens, Hawthorne, Hermosa Beach, Hidden Hills, Huntington Park, Industry, Inglewood, Irwindale, La Canada Flintridge, La Habra Heights, Lakewood, La Mirada, La Puente, La Verne, Lawndale, Lomita, Los Angeles, Lynwood, Malibu, Manhattan Beach, Maywood, Monrovia, Montebello, Monterey Park, Norwalk, Palos Verdes Estates, Paramount, Pasadena, Pico Rivera, Pomona, Rancho Palos Verdes, Redondo Beach, Rolling Hills, Rolling Hills Estates, Rosemead, San

Dimas, San Fernando, San Gabriel, San Marino, Santa Clarita, Santa Fe Springs, Santa Monica, Sierra Madre, Signal Hill, South El Monte, South Gate, South Pasadena, Temple City, Torrance, Vernon, Walnut, West Covina, West Hollywood, Westlake Village, and Whittier.

Persistent Pollutants
Persistent pollutants are substances for which degradation or decomposition in the environment is nonexistent or very slow.

Planning Priority Projects
Those projects that are required to incorporate appropriate storm water mitigation measures into the design plan for their respective project. These types of projects include:

1. Ten or more unit homes (includes single family homes, multifamily homes, condominiums, and apartments)
2. A 100,000 or more square feet of impervious surface area industrial/ commercial development (1 ac starting March 2003)
3. Automotive service facilities (SIC 5013, 5014, 5541, 7532-7534, and 7536-7539)
4. Retail gasoline outlets
5. Restaurants (SIC 5812)
6. Parking lots 5,000 square feet or more of surface area or with 25 or more parking spaces
7. Redevelopment projects in subject categories that meet Redevelopment thresholds
8. Projects located in or directly adjacent to or discharging directly to an ESA, which meet thresholds; and9. Those projects that require the implementation of a site-specific plan to mitigate post-development storm water for new development not requiring a SUSMP but which may potentially have adverse impacts on post-development storm water quality, where the following project characteristics exist:
   a) Vehicle or equipment fueling areas;
   b) Vehicle or equipment maintenance areas, including washing and repair;
   c) Commercial or industrial waste handling or storage;
   d) Outdoor handling or storage of hazardous materials;
   e) Outdoor manufacturing areas;
   f) Outdoor food handling or processing;
   g) Outdoor animal care, confinement, or slaughter; or
   h) Outdoor horticulture activities.

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 operation, landfill leachate collection system, 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. (40 CFR § 122.2)

Pollutant Minimization Program (PMP)
PMP means waste minimization and pollution prevention actions that include, but are not limited to, product substitution, waste stream recycling, alternative waste management methods, and education of the public and businesses. The goal of the PMP shall be to reduce

all potential sources of a priority pollutant(s) through pollutant minimization (control) strategies, including pollution prevention measures as appropriate, to maintain the effluent concentration at or below the water quality-based effluent limitation. Pollution prevention measures may be particularly appropriate for persistent bioaccumulative priority pollutants where there is evidence that beneficial uses are being impacted. The Regional Water Board may consider cost effectiveness when establishing the requirements of a PMP. The completion and implementation of a Pollution Prevention Plan, if required pursuant to California Water Code section 13263.3(d), shall be considered to fulfill the PMP requirements.

Pollutants
Those "pollutants" defined in CWA §502(6) (33.U.S.C.§1362(6)), and incorporated by reference into California Water Code §13373

Pollution Prevention
Pollution Prevention means any action that causes a net reduction in the use or generation of a hazardous substance or other pollutant that is discharged into water and includes, but is not limited to, input change, operational improvement, production process change, and product reformulation (as defined in California Water Code Section 13263.3). Pollution prevention does not include actions that merely shift a pollutant in wastewater from one environmental medium to another environmental medium, unless clear environmental benefits of such an approach are identified to the satisfaction of the State or Regional Water Board.

Potable Water
Water that meets the drinking water standards of the US Environmental Protection Agency.

Project
All development, redevelopment, and land disturbing activities. The term is not limited to "Project" as defined under CEQA (Pub. Resources Code §21065).

Rain Event
Any rain event greater than 0.1 inch in 24 hours except where specifically stated otherwise.

Rainfall Harvest and Use
Rainfall harvest and use is an LID BMP system designed to capture runoff, typically from a roof but can also include runoff capture from elsewhere within the site, and to provide for temporary storage until the harvested water can be used for irrigation or non-potable uses. The harvested water may also be used for potable water uses if the system includes disinfection treatment and is approved for such use by the local building department.

Rare, Threatened, or Endangered Species (RARE)
A beneficial use for waterbodies in the Los Angeles Region, as designated in the Basin Plan (Table 2-1), that supports habitats necessary, at least in part, for the survival and successful maintenance of plant or animal species established under state or federal law as rare, threatened, or endangered.

Raw Water
Water that is taken from the environment by drinking water suppliers with the intent to subsequently treat or purify it to produce potable water. Raw water does not include

wastewater discharges from activities that occur at wellheads, such as well construction, well development (i.e., aquifer pumping tests, well purging, etc.), or major well maintenance.

Receiving Water
A "water of the United States" into which waste and/or pollutants are or may be discharged.

Receiving Water Limitation
Any applicable numeric or narrative water quality objective or criterion, or limitation to implement the applicable water quality objective or criterion, for the receiving water as contained in Chapter 3 or 7 of the Water Quality Control Plan for the Los Angeles Region (Basin Plan), water quality control plans or policies adopted by the State Water Board, or federal regulations, including but not limited to, 40 CFR § 131.38.

Redevelopment
Land-disturbing activity that results in the creation, addition, or replacement of 5,000 square feet or more of impervious surface area on an already developed site. Redevelopment includes, but is not limited to: the expansion of a building footprint; addition or replacement of a structure; replacement of impervious surface area that is not part of a routine maintenance activity; and land disturbing activities related to structural or impervious surfaces. It does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of facility, nor does it include emergency construction activities required to immediately protect public health and safety.

Regional Administrator
The Regional Administrator of the Regional Office of the USEPA or the authorized representative of the Regional Administrator.

Reporting Level (RL)
RL is the ML (and its associated analytical method) chosen by the Discharger for reporting and compliance determination from the MLs included in this Order. The MLs included in this Order correspond to approved analytical methods for reporting a sample result that are selected by the Regional Water Board either from Appendix 4 of the State Implementation Policy (SIP) in accordance with Section 2.4.2 of the SIP or established in accordance with Section 2.4.3 of the SIP. The ML is based on the proper application of method-based analytical procedures for sample preparation and the absence of any matrix interferences. Other factors may be applied to the ML depending on the specific sample preparation steps employed. For example, the treatment typically applied in cases where there are matrix-effects is to dilute the sample or sample aliquot by a factor of ten. In such cases, this additional factor must be applied to the ML in the computation of the RL.

Residual Water
In the context of this Order, water remaining in a structural BMP subsequent to the drawdown or drainage period. The residual water typically contains high concentration(s) of pollutants.

Restaurant
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).

Retail Gasoline Outlet
Any facility engaged in selling gasoline and lubricating oils.

Routine Maintenance
Routine maintenance projects include, but are not limited to projects conducted to:

1. Maintain the original line and grade, hydraulic capacity, or original purpose of the facility.
2. Perform as needed restoration work to preserve the original design grade, integrity and hydraulic capacity of flood control facilities.
3. Includes road shoulder work, regrading dirt or gravel roadways and shoulders and performing ditch cleanouts.
4. Update existing lines* and facilities to comply with applicable codes, standards, and regulations regardless if such projects result in increased capacity.
5. Repair leaks

Routine maintenance does not include construction of new** lines or facilities resulting from compliance with applicable codes, standards and regulations.

* Update existing lines includes replacing existing lines with new materials or pipes.

** New lines are those that are not associated with existing facilities and are not part of a project to update or replace existing lines.

Runoff
Any runoff including storm water and dry weather flows from a drainage area that reaches a receiving water body or subsurface. During dry weather it is typically comprised of base flow either contaminated with pollutants or uncontaminated, and nuisance flows.

Screening
Using proactive methods to identify illicit connections through a continuously narrowing process. The methods may include: performing baseline monitoring of open channels, conducting special investigations using a prioritization approach, analyzing maintenance records for catch basin and storm drain cleaning and operation, and verifying all permitted connections into the storm drains. Special investigation techniques may include: dye testing, visual inspection, smoke testing, flow monitoring, infrared, aerial and thermal photography, and remote control camera operation.

Sidewalk Rinsing
Means pressure washing of paved pedestrian walkways with average water usage of 0.006 gallons per square foot, with no cleaning agents, and properly disposing of all debris collected, as authorized under Regional Water Board Resolution No. 98-08.

Significant Ecological Areas (SEAs)
An area that is determined to possess an example of biotic resources that cumulatively represent biological diversity, for the purposes of protecting biotic diversity, as part of the Los Angeles County General Plan.

Areas are designated as SEAs, if they possess one or more of the following criteria:

1. The habitat of rare, endangered, and threatened plant and animal species.
2. Biotic communities, vegetative associations, and habitat of plant and animal species that are either one of a kind, or are restricted in distribution on a regional basis.

3. Biotic communities, vegetative associations, and habitat of plant and animal species that are either one of a kind or are restricted in distribution in Los Angeles County.
4. Habitat that at some point in the life cycle of a species or group of species, serves as a concentrated breeding, feeding, resting, migrating grounds and is limited in availability either regionally or within Los Angeles County.
5. Biotic resources that are of scientific interest because they are either an extreme in physical/geographical limitations, or represent an unusual variation in a population or community.
6. Areas important as game species habitat or as fisheries.
7. Areas that would provide for the preservation of relatively undisturbed examples of natural biotic communities in Los Angeles County.
8. Special areas.

Significant Natural Area (SNA)
An area defined by the California Department of Fish and Game (DFG), Significant Natural Areas Program, as an area that contains an important example of California's biological diversity. The most current SNA maps, reports, and descriptions can be downloaded from the DFG website at ftp://maphost.dfg.ca.gov/outgoing/whdab/sna/. These areas are identified using the following biological criteria only, irrespective of any administrative or jurisdictional considerations:

1. Areas supporting extremely rare species or habitats.
2. Areas supporting associations or concentrations of rare species or habitats.
3. Areas exhibiting the best examples of rare species and habitats in the state

Site
The land or water area where any “facility or activity” is physically located or conducted, including adjacent land used in connection with the facility or activity.

Source Control BMP
Any schedules of activities, prohibitions of practices, maintenance procedures, managerial practices or operational practices that aim to prevent storm water pollution by reducing the potential for contamination at the source of pollution.

Source of Drinking Water
Any water designated as municipal or domestic supply (MUN) in a Regional Water Board Basin Plan.

SQMP
The Los Angeles Countywide Stormwater Quality Management Program.

Standard Deviation (σ)
Standard Deviation is a measure of variability that is calculated as follows:

$$\sigma = (\sum[(x - \mu)^2]/(n - 1))^{0.5}$$

where:
x is the observed value;
μ is the arithmetic mean of the observed values; and
n is the number of samples.

State Storm Water Pollution Prevention Plan (State SWPPP)
A plan, as required by a State General Permit, identifying potential pollutant sources and describing the design, placement and implementation of BMPs, to effectively prevent non-stormwater Discharges and reduce Pollutants in Stormwater Discharges during activities covered by the General Permit.

Storm Water
Storm water runoff, snow melt runoff, and surface runoff and drainage related to precipitation events (pursuant to 40 CFR § 122.26(b)(13); 55 Fed. Reg. 47990, 47995 (Nov. 16, 1990)).

Storm Water Discharge Associated with Industrial Activity
Industrial discharge as defined in 40 CFR 122.26(b)(14).

Stormwater Quality Management Program
The Los Angeles Countywide Stormwater Quality Management Program, which includes descriptions of programs, collectively developed by the Permittees in accordance with provisions of the NPDES Permit, to comply with applicable federal and state law, as the same is amended from time to time.

Structural BMP
Any structural facility designed and constructed to mitigate the adverse impacts of storm water and urban runoff pollution (e.g. canopy, structural enclosure). The category may include both Treatment Control BMPs and Source Control BMPs.

SUSMP
The Los Angeles Countywide Standard Urban Stormwater Mitigation Plan. The SUSMP shall address conditions and requirements of new development.

Total Maximum Daily Load (TMDL)
The sum of the individual waste load allocations for point sources and load allocations for nonpoint sources and natural background.

Toxicity Identification Evaluation (TIE)
A set of procedures to identify the specific chemical(s) responsible for toxicity. These procedures are performed in three phases (characterization, identification, and confirmation) using aquatic organism toxicity tests.

Toxicity Reduction Evaluation (TRE)
TRE is a study conducted in a step-wise process designed to identify the causative agents of effluent or ambient toxicity, isolate the sources of toxicity, evaluate the effectiveness of toxicity control options, and then confirm the reduction in toxicity. The first steps of the TRE consist of the collection of data relevant to the toxicity, including additional toxicity testing, and an evaluation of facility operations and maintenance practices, and best management practices. A Toxicity Identification Evaluation (TIE) may be required as part of the TRE, if appropriate. (A TIE is a set of procedures to identify the specific chemical(s) responsible for toxicity. These procedures are performed in three phases (characterization, identification, and confirmation) using aquatic organism toxicity tests.)

Trash Excluders
Any structural trash control device that prevents the discharge of trash to the storm drain system or to receiving waters. A trash exclude may or may not be certified by the Executive Officer as meeting the "full capture" performance requirements.

Treatment
The application of engineered systems that use physical, chemical, or biological processes to remove pollutants. Such processes include, but are not limited to, filtration, gravity settling, media absorption, biodegradation, biological uptake, chemical oxidation and UV radiation.

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.

Unconfined ground water infiltration
Water other than waste water that enters the MS4 (including foundation drains) from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow. (See 40 CFR § 35.2005(20).)

Uncontaminated Ground Water Infiltration
Water other than waste water that enters the MS4 (including foundation drains) from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow. (See 40 CFR § 35.2005(20).)

USEPA Phase I Facilities
Facilities in specified industrial categories that are required to obtain an NPDES permit for storm water discharges, as required by 40 CFR 122.26(c). These categories include:

i. facilities subject to storm water effluent limitation guidelines, new source performance standards, or toxic pollutant effluent standards (40 CFR N)
ii. manufacturing facilities
iii. oil and gas/mining facilities
iv. hazardous waste treatment, storage, or disposal facilities
v. landfills, land application sites, and open dumps
vi. recycling facilities
vii. steam electric power generating facilities
viii. transportation facilities
ix. sewage of wastewater treatment works
x. light manufacturing facilities

Vehicle Maintenance/Material Storage Facilities/Corporation Yards
Any Permittee owned or operated facility or portion thereof that:

i. Conducts industrial activity, operates equipment, handles materials, and provides services similar to Federal Phase I facilities;
ii. Performs fleet vehicle service/maintenance on ten or more vehicles per day including repair, maintenance, washing, and fueling;
iii. Performs maintenance and/or repair of heavy industrial machinery/equipment; and

iv. Stores chemicals, raw materials, or waste materials in quantities that require a hazardous materials business plan or a Spill Prevention, Control, and Counter-measures (SPCC) plan.

Water Quality-based Effluent Limitation
Any restriction imposed on quantities, discharge rates, and concentrations of pollutants, which are discharged from point sources to waters of the U.S. necessary to achieve a water quality standard.

Waters of the State
Any surface water or groundwater, including saline waters, within the boundaries of the state.

Waters of the United States or Waters of the U.S.

a. All waters that 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 sea; and
g. "Wetlands" adjacent to waters (other than waters that are themselves wetlands) identified in paragraph (a) through (f) of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA (other than cooling ponds as defined in 40 CFR section 423.22(m), which also meet the criteria of this definition) are not waters of the United States. This exclusion applies only to man-made bodies of water, which neither were originally created in waters of the United States (such as disposal area in wetlands) nor resulted from the impoundment of waters of the United States. 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 CWA, the final authority regarding CWA jurisdiction remains with USEPA.

Wet Season
The calendar period beginning October 1 through April 15.

ACRONYMS AND ABBREVIATIONS

AMEL	Average Monthly Effluent Limitation
ASBS	Areas of Special Biological Significance
B	Background Concentration
BAT	Best Available Technology Economically Achievable
Basin Plan	*Water Quality Control Plan for the Coastal Watersheds of Los Angeles and Ventura Counties*
BCT	Best Conventional Pollutant Control Technology
BMP	Best Management Practices
BMPP	Best Management Practices Plan
BPJ	Best Professional Judgment
BOD	Biochemical Oxygen Demand 5-day @ 20 ℃
BPT	Best Practicable Treatment Control Technology
C	Water Quality Objective
CCR	California Code of Regulations
CEEIN	California Environmental Education Interagency Network
CEQA	California Environmental Quality Act
CFR	Code of Federal Regulations
CTR	California Toxics Rule
CV	Coefficient of Variation
CWA	Clean Water Act
CWC	California Water Code
Discharger	Los Angeles County MS4 Permittees
DMR	Discharge Monitoring Report
DNQ	Detected But Not Quantified
ELAP	California Department of Public Health Environmental Laboratory Accreditation Program
ELG	Effluent Limitations, Guidelines and Standards
Ep	Erosion potential
ESCP	Erosion and Sediment Control Plan
EWMP	Enhanced Watershed Management Program
Facility	Los Angeles County MS4s
GIS	Geographical Information System
gpd	gallons per day
HUC	Hydrologic Unit Code
IC	Inhibition Coefficient
IC_{15}	Concentration at which the organism is 15% inhibited
IC_{25}	Concentration at which the organism is 25% inhibited
IC_{40}	Concentration at which the organism is 40% inhibited
IC_{50}	Concentration at which the organism is 50% inhibited
IC/ID	Illicit Connection and Illicit Discharge Elimination
IPM	Integrated Pest Management
LA	Load Allocations
LID	Low Impact Development
LOEC	Lowest Observed Effect Concentration
LUPs	Linear Underground/Overhead Projects

µg/L	micrograms per Liter
MCM	Minimum Control Measure
mg/L	milligrams per Liter
MDEL	Maximum Daily Effluent Limitation
MEC	Maximum Effluent Concentration
MGD	Million Gallons Per Day
ML	Minimum Level
MRP	Monitoring and Reporting Program
MS4	Municipal Separate Storm Sewer System
NAICS	North American Industry Classification System
ND	Not Detected
NOEC	No Observable Effect Concentration
NPDES	National Pollutant Discharge Elimination System
NSPS	New Source Performance Standards
NTR	National Toxics Rule
OAL	Office of Administrative Law
PIPP	Public Information and Participation Program
PMP	Pollutant Minimization Plan
POTW	Publicly Owned Treatment Works
QA	Quality Assurance
QA/QC	Quality Assurance/Quality Control
QSD	Qualified SWPPP Developer
QSP	Qualified SWPPP Practitioner
Ocean Plan	*Water Quality Control Plan for Ocean Waters of California*
RAP	Reasonable Assurance Program
REAP	Rain Event Action Plan
Regional Water Board	California Regional Water Quality Control Board, Los Angeles Region
RGOs	Retail Gasoline Outlets
RPA	Reasonable Potential Analysis
SCP	Spill Contingency Plan
SEA	Significant Ecological Area
SIC	Standard Industrial Classification
SIP	State Implementation Policy (*Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California)*
SMR	Self Monitoring Reports
State Water Board	California State Water Resources Control Board
SWPPP	Storm Water Pollution Prevention Plan
SWQDv	Storm Water Quality Design Volume
SWQPA	State Water Quality Protected Area
TAC	Test Acceptability Criteria
Thermal Plan	*Water Quality Control Plan for Control of Temperature in the Coastal and Interstate Water and Enclosed Bays and Estuaries of California*
TIE	Toxicity Identification Evaluation
TMDL	Total Maximum Daily Load

TOC	Total Organic Carbon
TRE	Toxicity Reduction Evaluation
TSD	Technical Support Document
TSS	Total Suspended Solid
TU_c	Chronic Toxicity Unit
USEPA	United States Environmental Protection Agency
WDR	Waste Discharge Requirements
WDID	Waste Discharge Identification
WET	Whole Effluent Toxicity
WLA	Waste Load Allocations
WMA	Watershed Management Area
WMP	Watershed Management Program
WQBELs	Water Quality-Based Effluent Limitations
WQS	Water Quality Standards
%	Percent

ATTACHMENT B – WATERSHED MANAGEMENT AREA MAPS

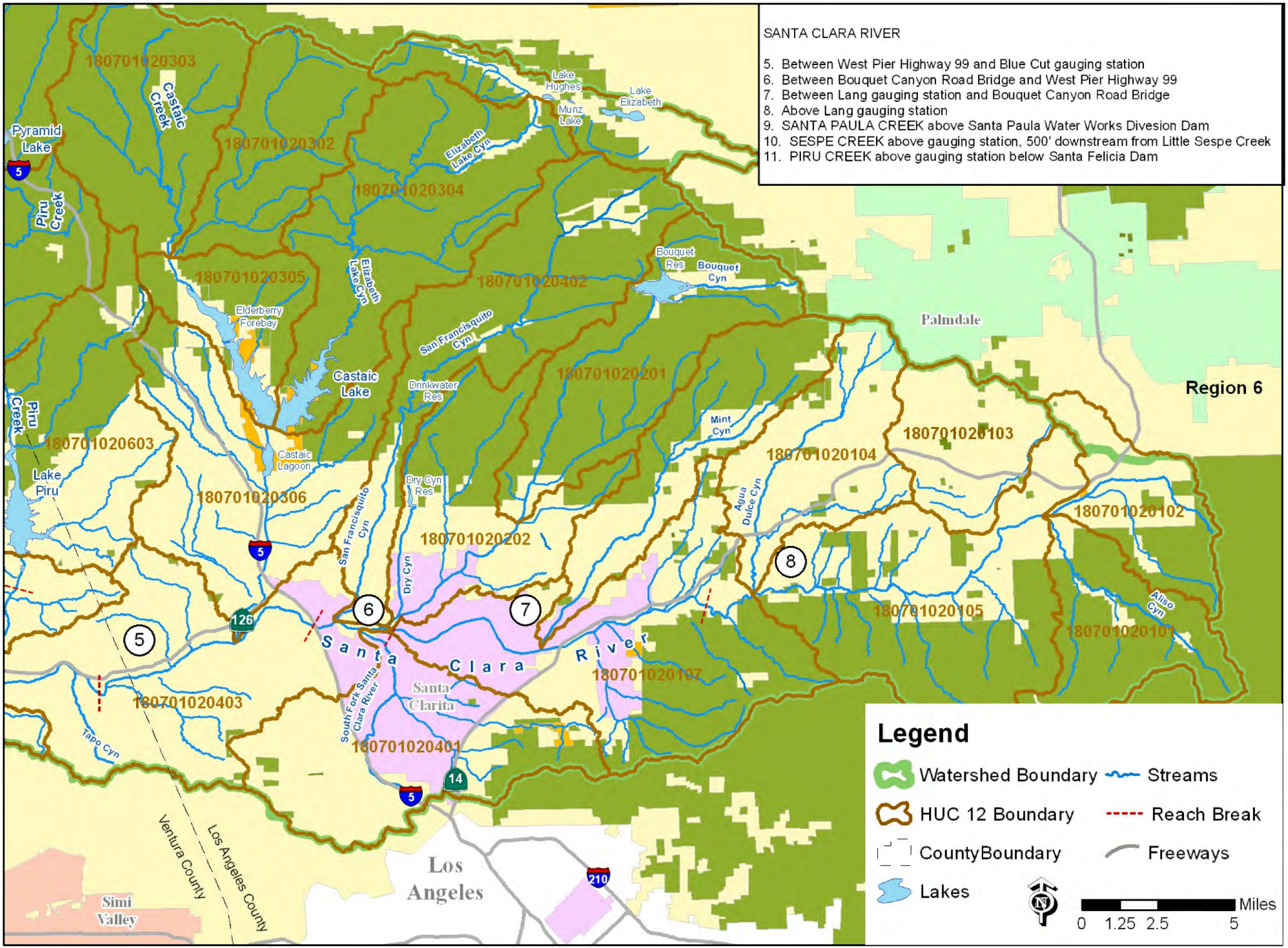


Figure B-1: Upper Santa Clara River Watershed Management Area Hydrologic Units.

Figure B-2: Santa Monica Bay Watershed Management Area Hydrologic Units.

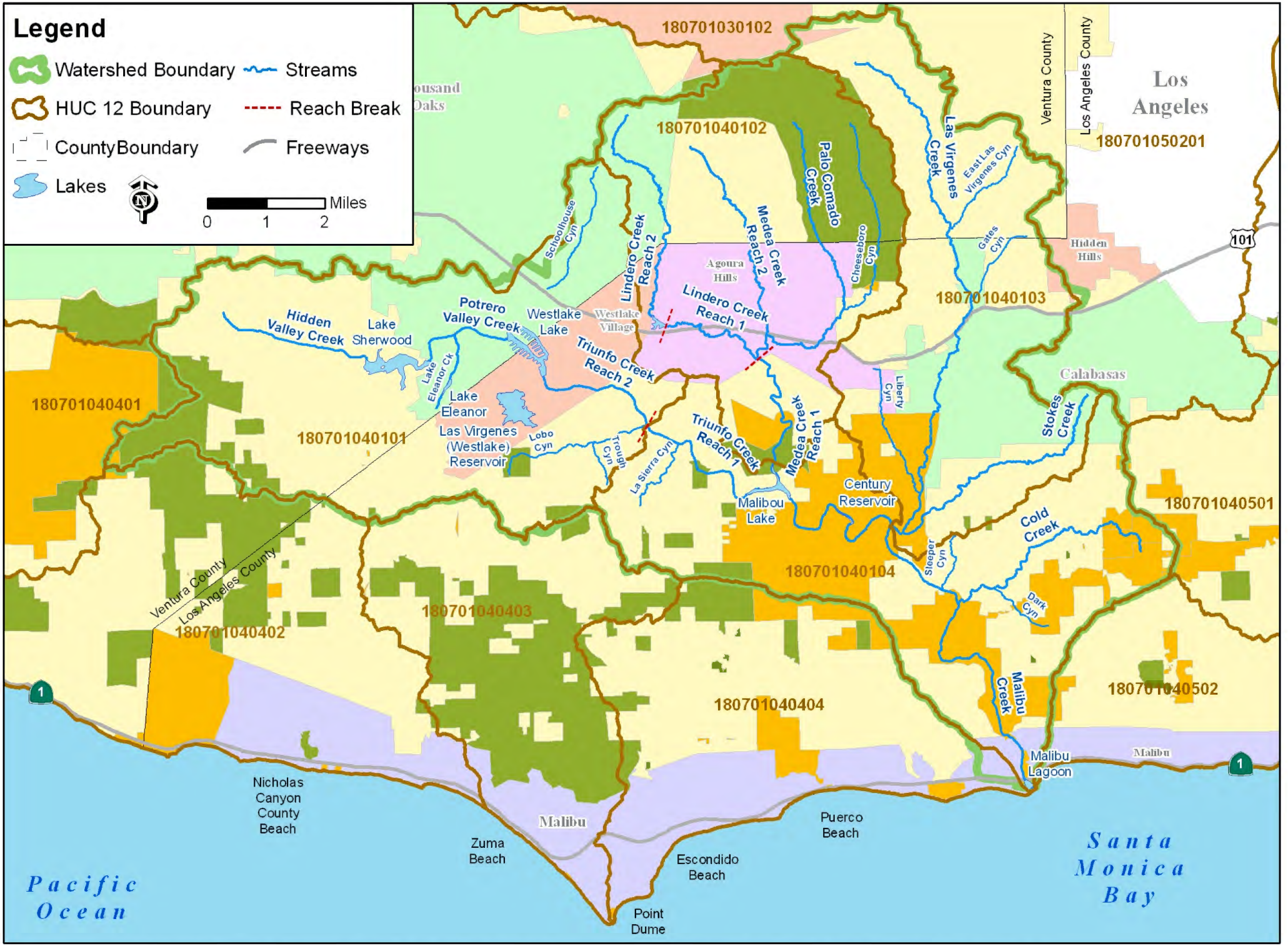


Figure B-2a: Malibu Creek Watershed Hydrologic Units (Santa Monica Bay WMA).

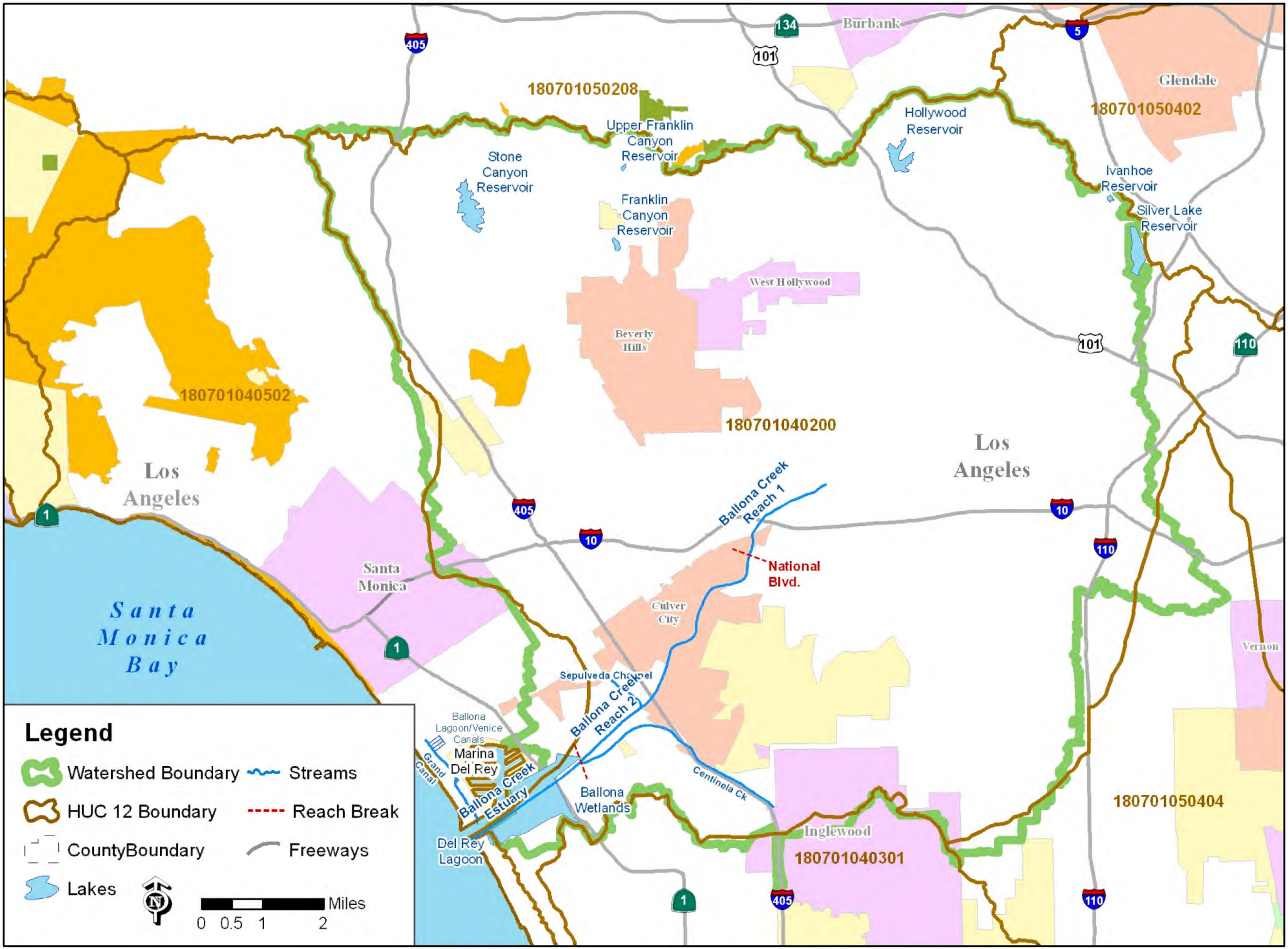


Figure B-2b: Ballona Creek Watershed Hydrologic Units (Santa Monica Bay WMA).

Figure B-2c: Marina Del Rey Watershed Hydrologic Units (Santa Monica Bay WMA).

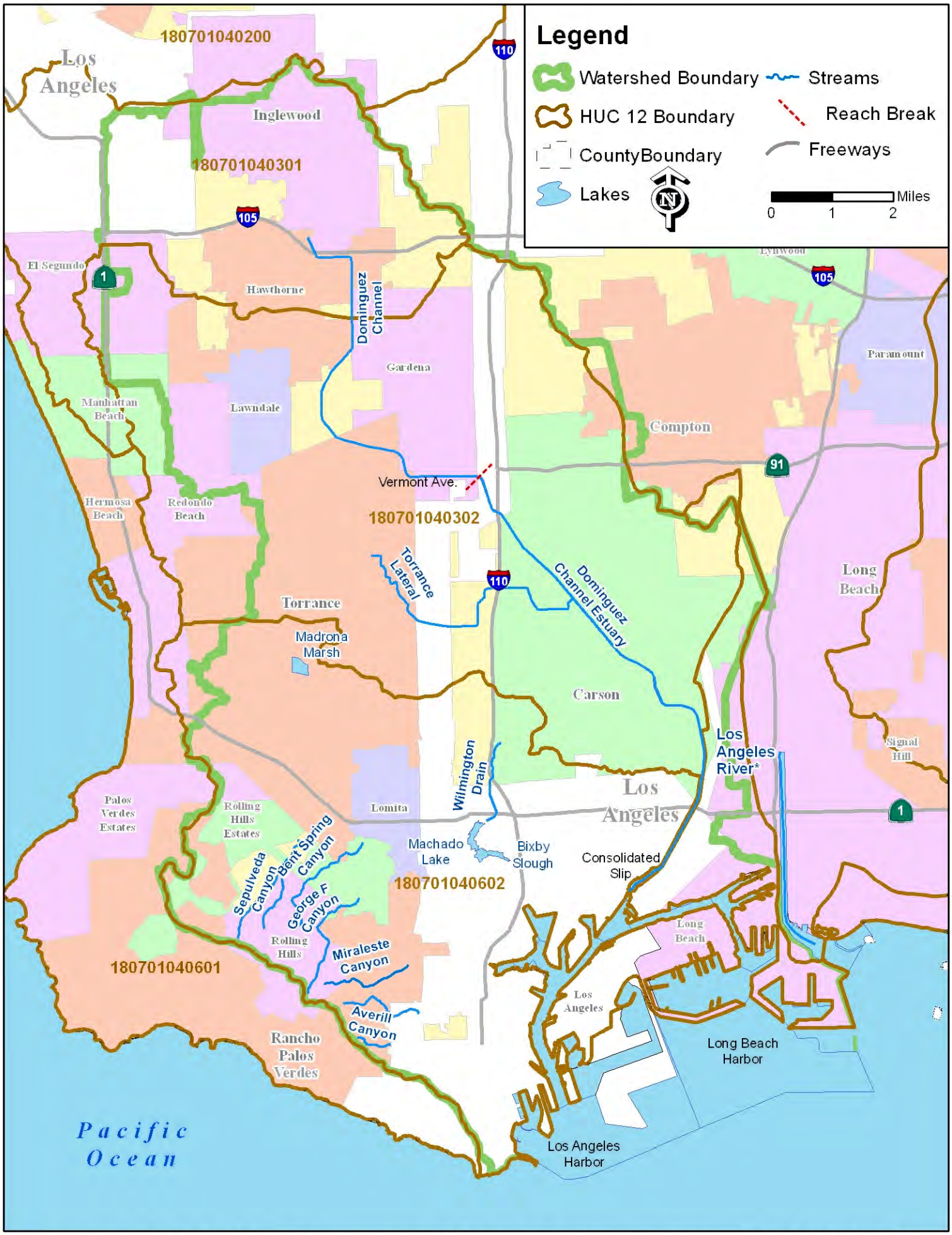


Figure B-3: Dominguez Channel and Los Angeles/Long Beach Harbors Watershed Management Area Hydrologic Units.

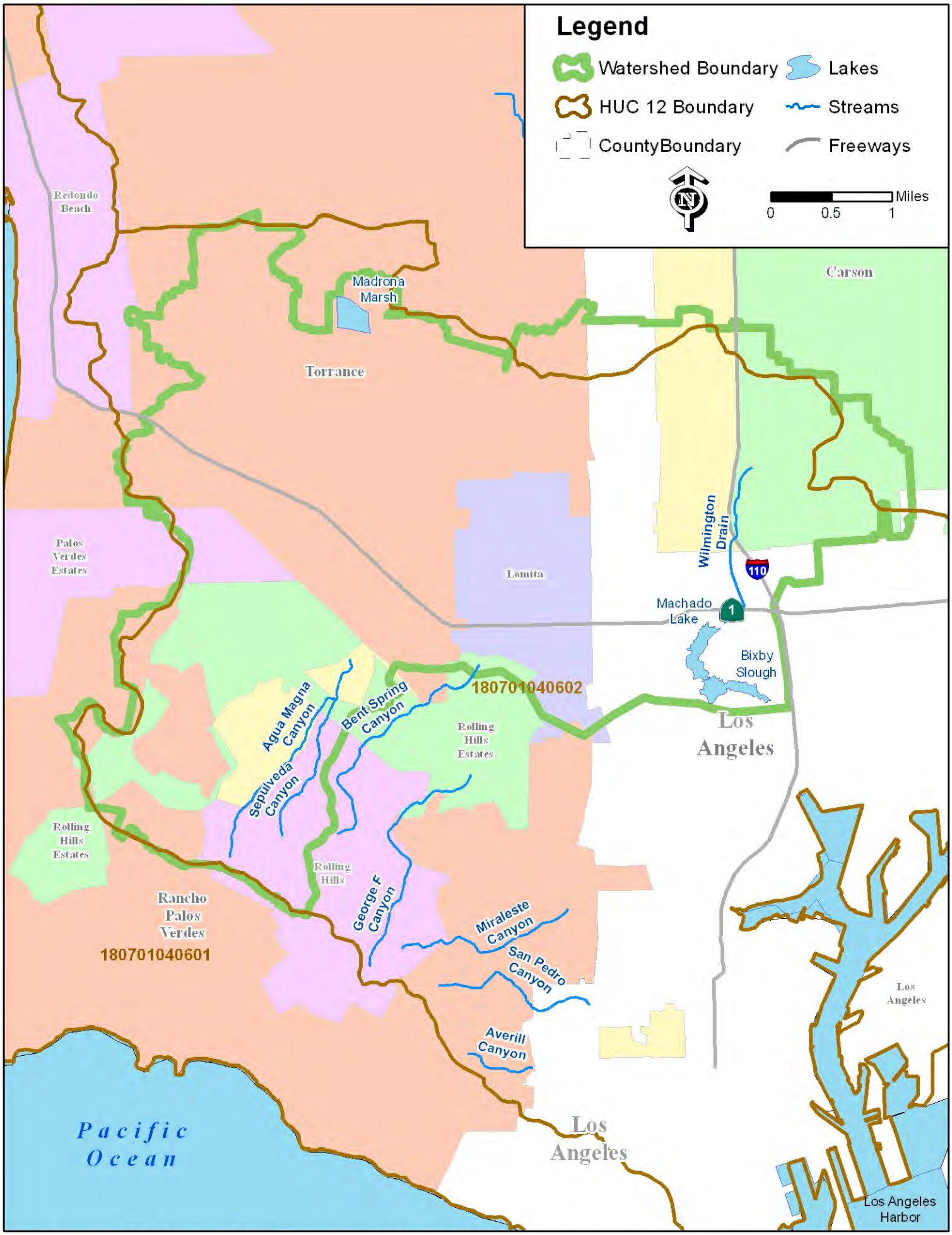


Figure B-3a: Machado Lake Watershed Hydrologic Units (Dominguez Channel & LA/LB Harbors WMA).

LOS ANGELES RIVER
1. Between Carson St. and Los Angeles River Estuary
2. Between Figueroa St. and Carson St.
3. Between Riverside Drive and Figueroa St.
4. Between Sepulveda Dam and Riverside Drive
5. Between Balboa Blvd. and Sepulveda Dam
6. Above Balboa Blvd.
Legend
Watershed Boundary
Streams
HUC 12 Boundary
Reach Break
CountyBoundary
Freeways
Lakes
Miles
0 1 2 4
Region 6
Region 8
Santa Monica Bay
San Pedro Bay
Los Angeles River Estuary
Ventura County
Los Angeles County
Orange County
180701020403
180701020401
180701020107
180701020105
180701050205
180701050102
180701050103
180701050105
180701060102
180701050201
180701050208
180701050402
180701050403
180701040502
180701040200
180701040301
180701050404
180701040302
180701040602
180702010000
180701060502
Santa Clarita
Simi Valley
Los Angeles
Glendale
Burbank
Pasadena
Arcadia
El Monte
Calabasas
Malibu
Santa Monica
Beverly Hills
Hawthorne
Compton
Norwalk
La Mirada
Long Beach
Commerce
Vernon
Bell
Alhambra
Monterey Park
San Marino
Duarte
Torrance
Dominguez Channel*
Los Angeles River
Arroyo Seco Reach 3
Arroyo Seco Reach 1
Rio Hondo Reach 2
Rio Hondo Reach 1
Pacoima Wash
Tujunga Wash
Pacoima Res
Big Tujunga Res
Hansen Flood Control Basin & Lakes
Los Angeles Res
Lower Van Norman Res
Sepulveda Flood Control Basin
Encino Res
Chatsworth Res
Dayton Ck
Bell Ck
Bull Ck
Eagle Rock Res
Devils Gate Res
Big Santa Anita Res
Sawpit Dam and Res
Eaton Dam and Res
Elysian Res
Echo Lake
Lincoln Park Lake
Legg Lake
Whittier Narrows Flood Control Basin
Encino Res
Stetson Cyn
May Cyn
Wilson Cyn
Lopez Cyn Ck
Kagel Cyn
Little Tujunga Ck
Mill Ck
Big Tujunga Ck
Upper Big Tujunga Ck
Clear Ck
Vasquez Ck
Little Bear Cyn
Haines Cyn Ck
La Tuna Cyn Ck
Dunsmore Cyn Channel
Pickens Cyn Channel
Snover Cyn
East Fork Santa Anita Cyn
Rubio Cyn
Eaton Wash
Arcadia Wash
Santa Anita Wash
Rubio Wash
Alhambra Wash
Compton Ck
Aliso Cyn Wash
Limekiln Cyn Wash
Browns Cyn Ck
Browns Cyn Wash
McCoy Cyn Ck
Arroyo Calabasas
Dry Cyn Ck
Burbank Western Channel
Central Branch Tujunga Wash
Figure B-4: Los Angeles River Watershed Management Area Hydrologic Units.

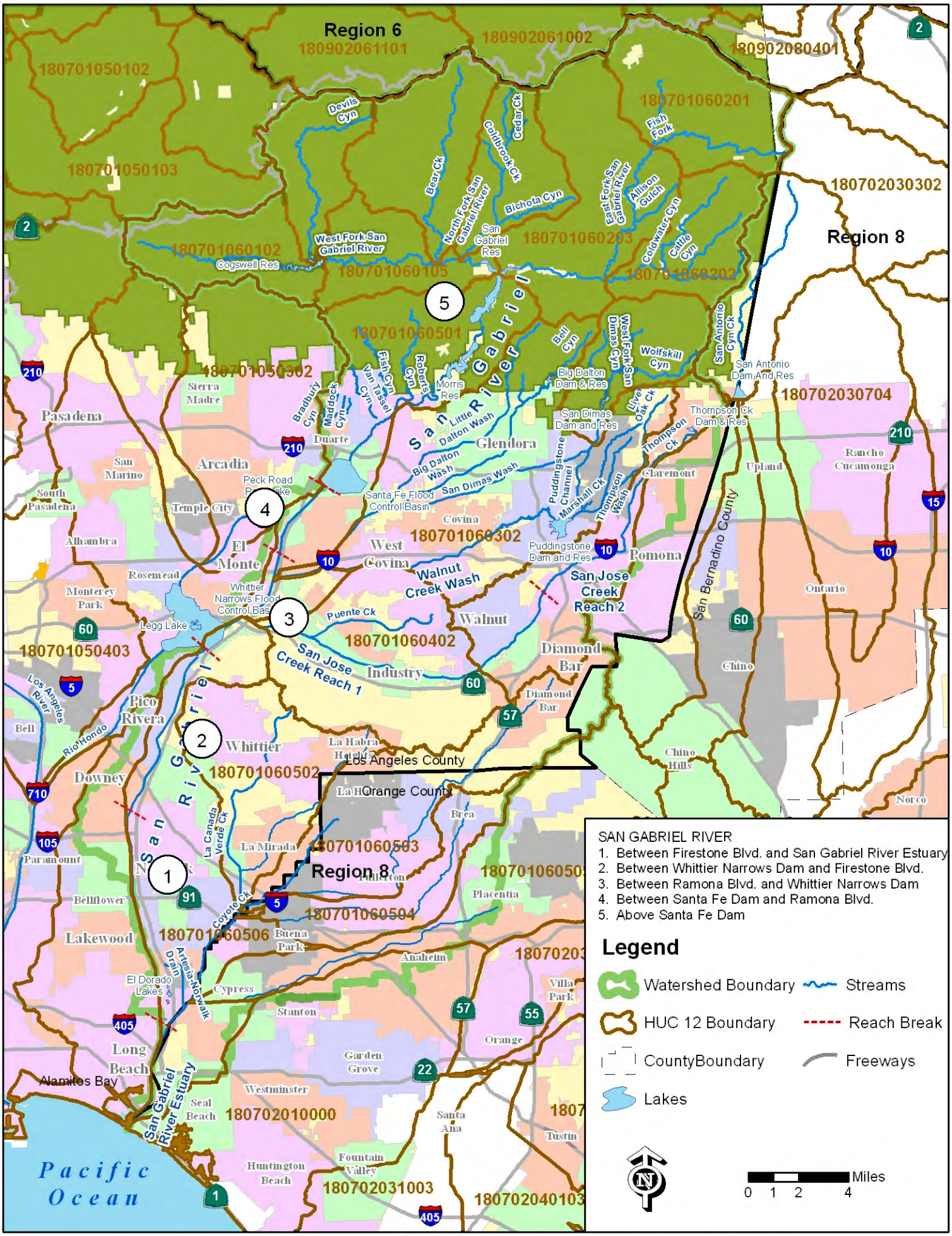


Figure B-5: San Gabriel River Watershed Management Area Hydrologic Units.

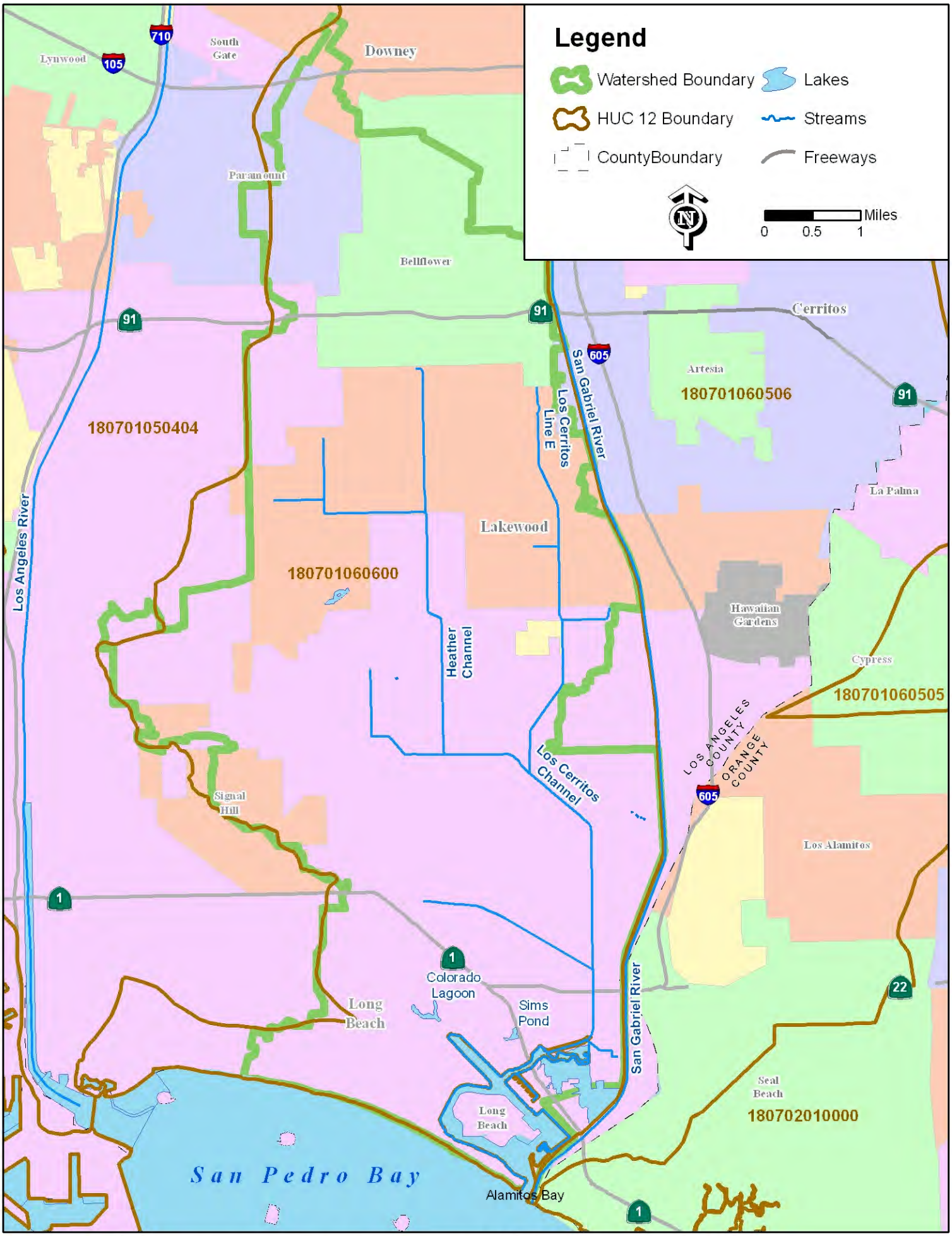


Figure B-6: Los Cerritos Channel and Alamitos Bay Watershed Management Area Hydrologic Units.

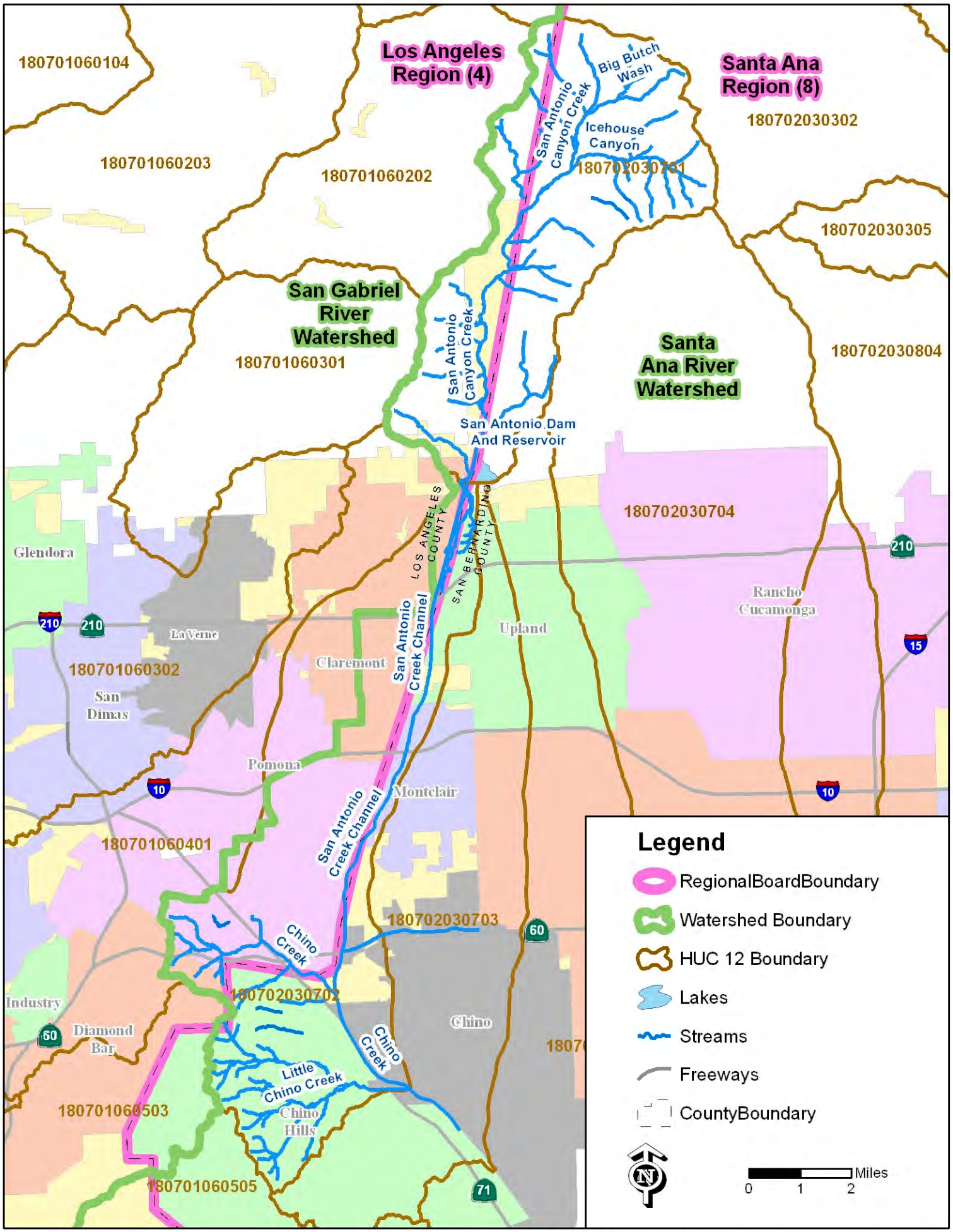


Figure B-7: Middle San Antonio Creek Subwatershed Hydrologic Units.

ATTACHMENT C – MS4 MAPS BY WATERSHED MANAGEMENT AREA

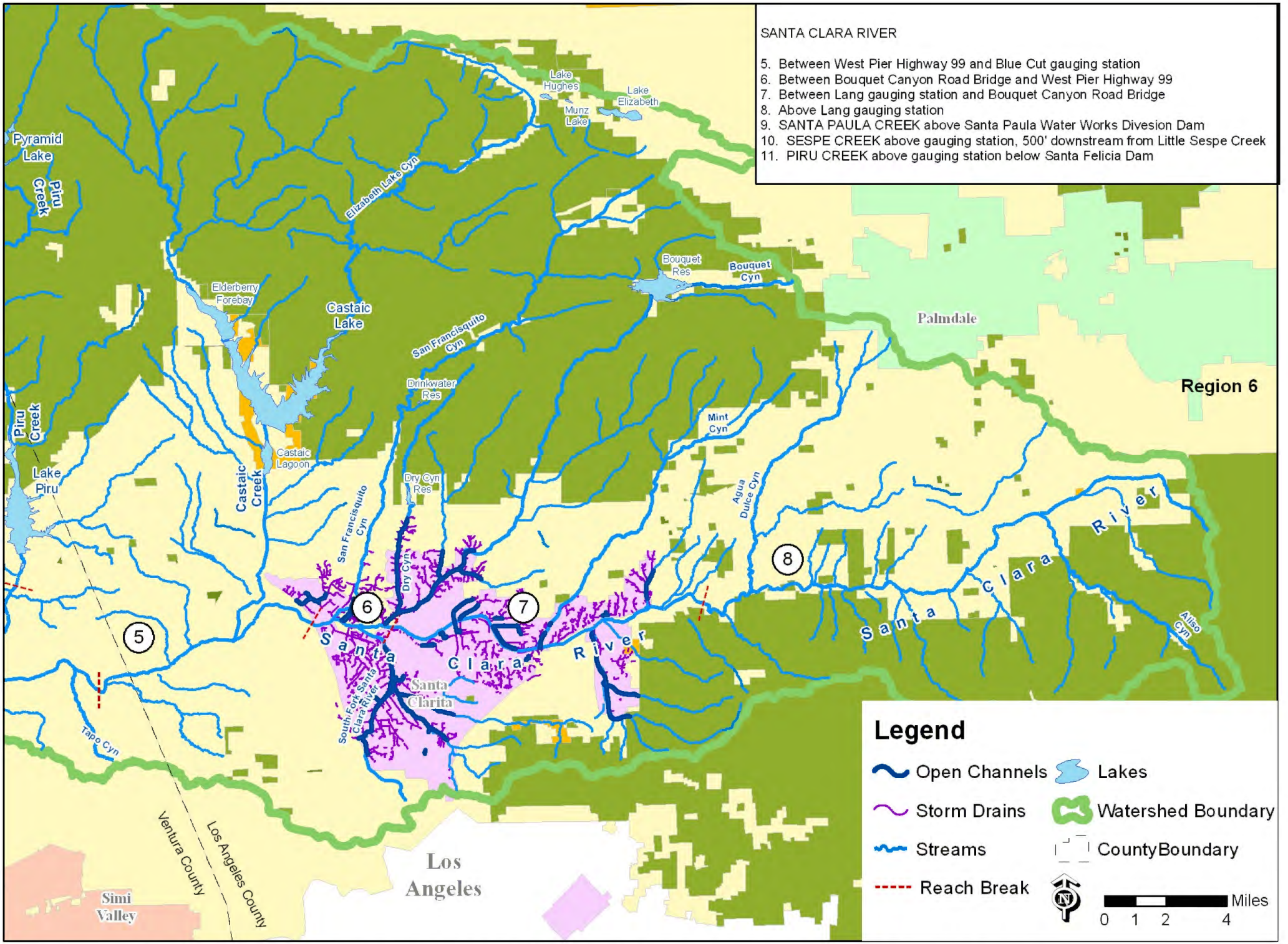


Figure C-1: Upper Santa Clara River Watershed Management Area Flow Schematic.

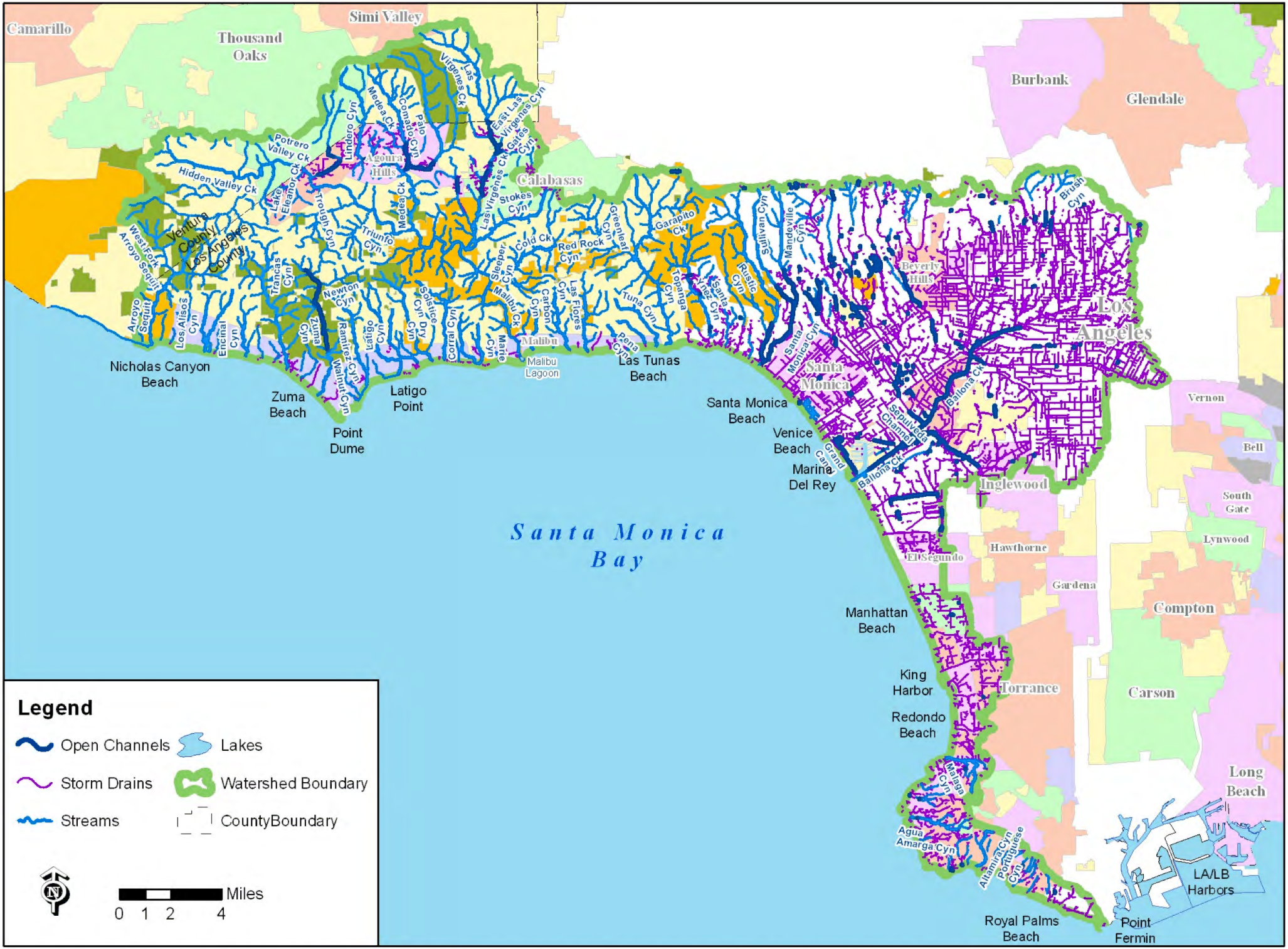


Figure C-2: Santa Monica Bay Watershed Management Area Flow Schematic.

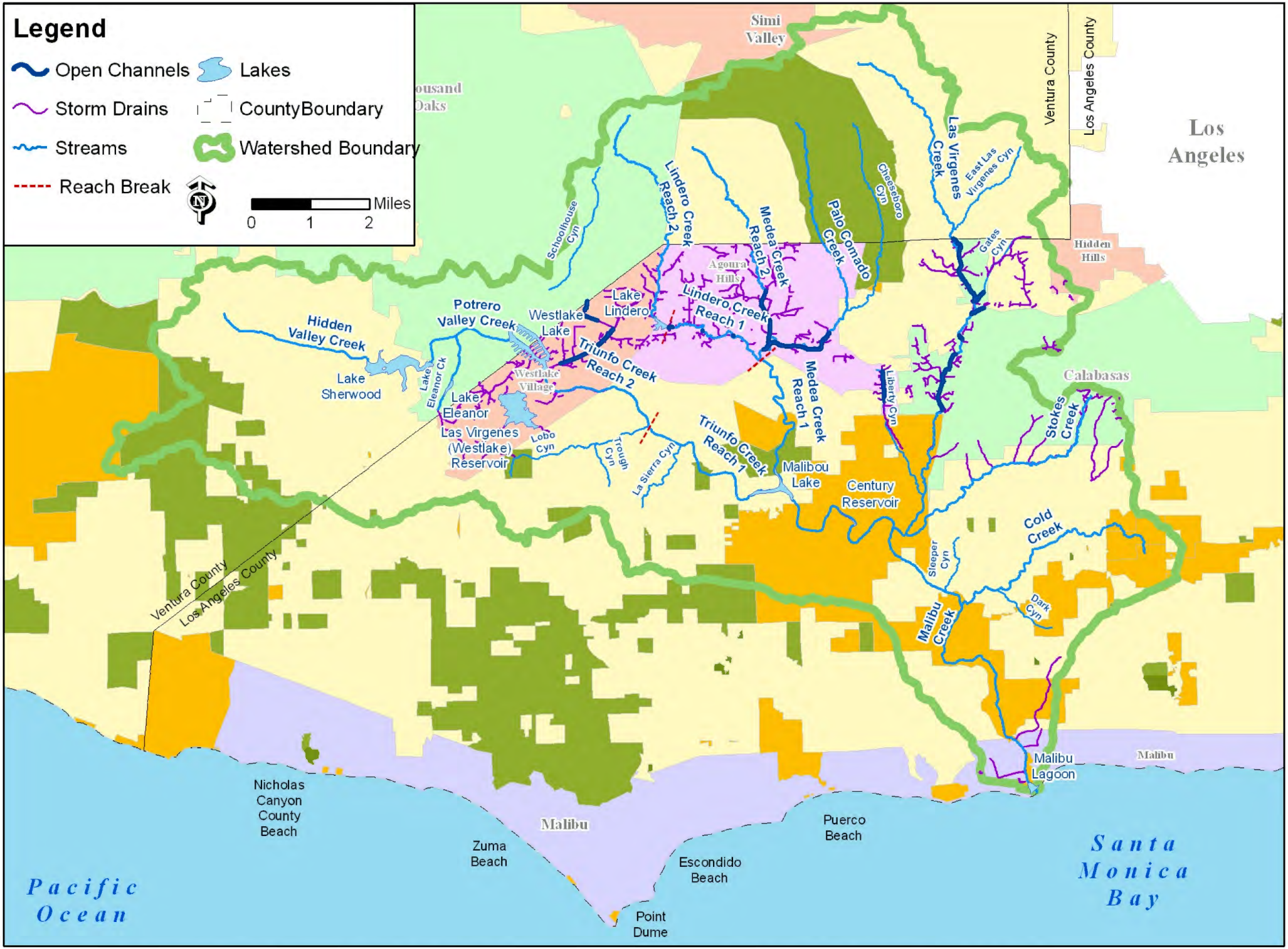


Figure C-2a: Malibu Creek Watershed Flow Schematic (Santa Monica Bay WMA).

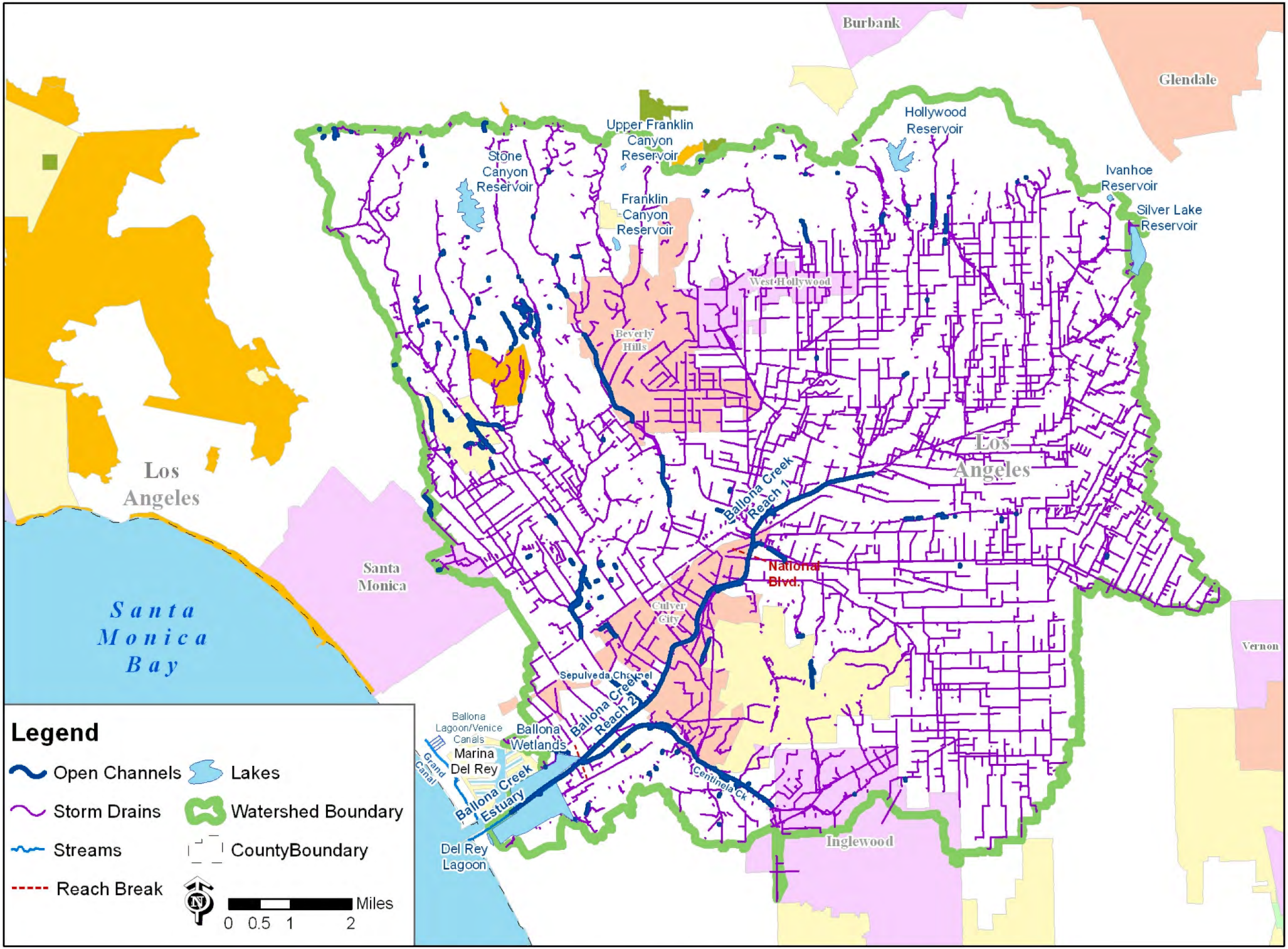


Figure C-2b: Ballona Creek Watershed Flow Schematic (Santa Monica Bay WMA).

Figure C-2c: Marina Del Rey Watershed Flow Schematic (Santa Monica Bay WMA).

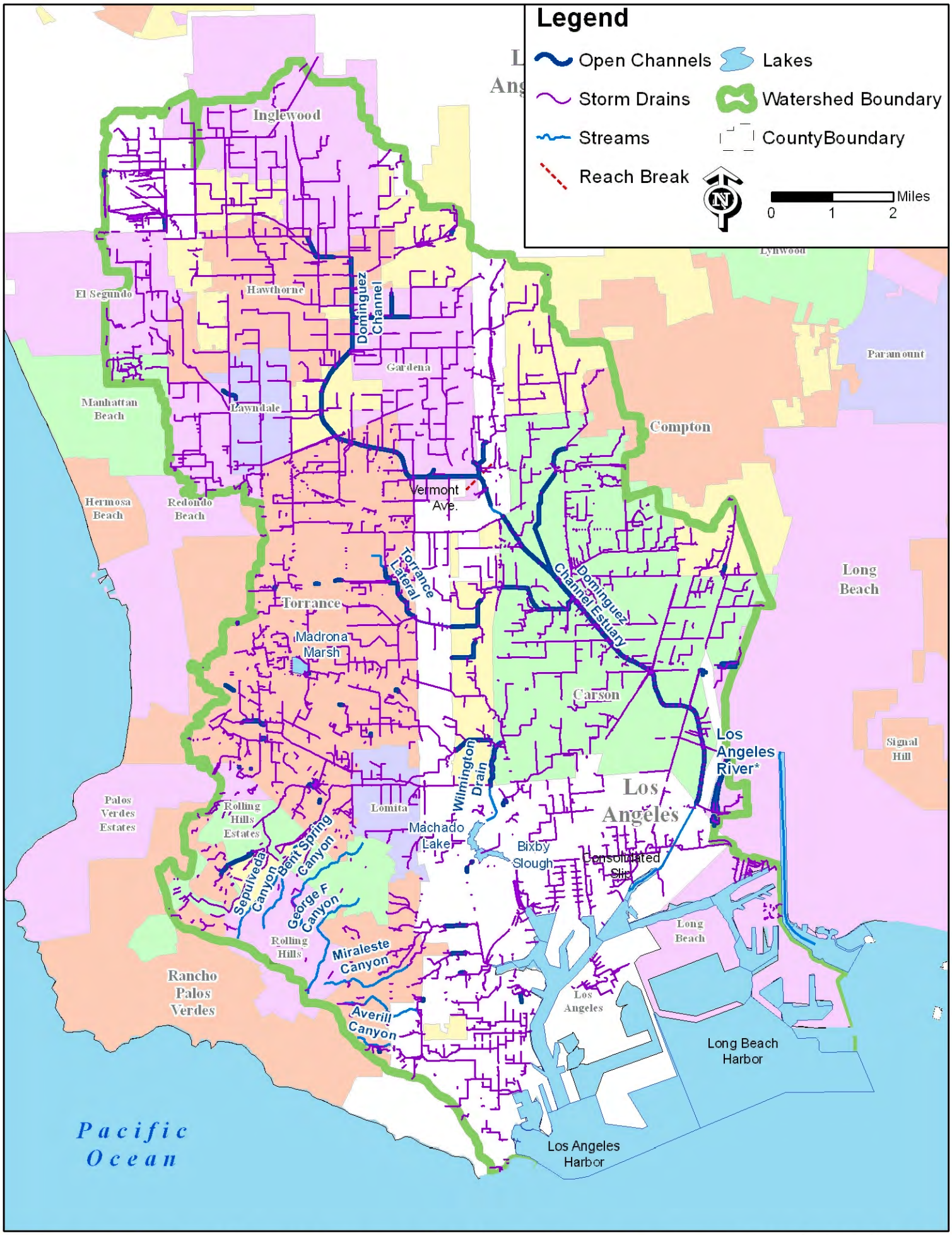


Figure C-3: Dominguez Channel and Los Angeles/Long Beach Harbors Watershed Management Area Flow Schematic.

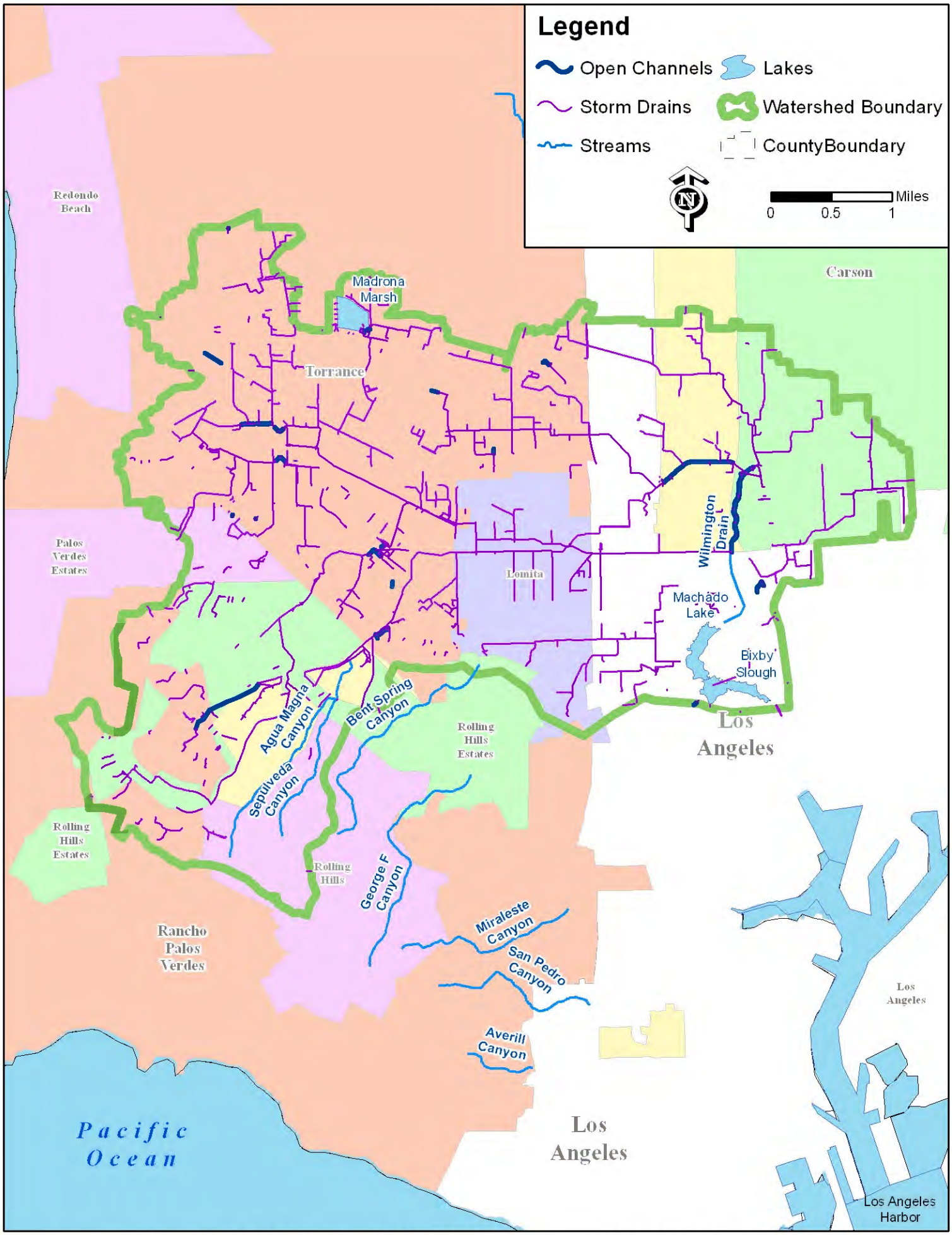


Figure C-3a: Machado Lake Watershed Flow Schematic (Dominguez Channel & LA/LB Harbors WMA).

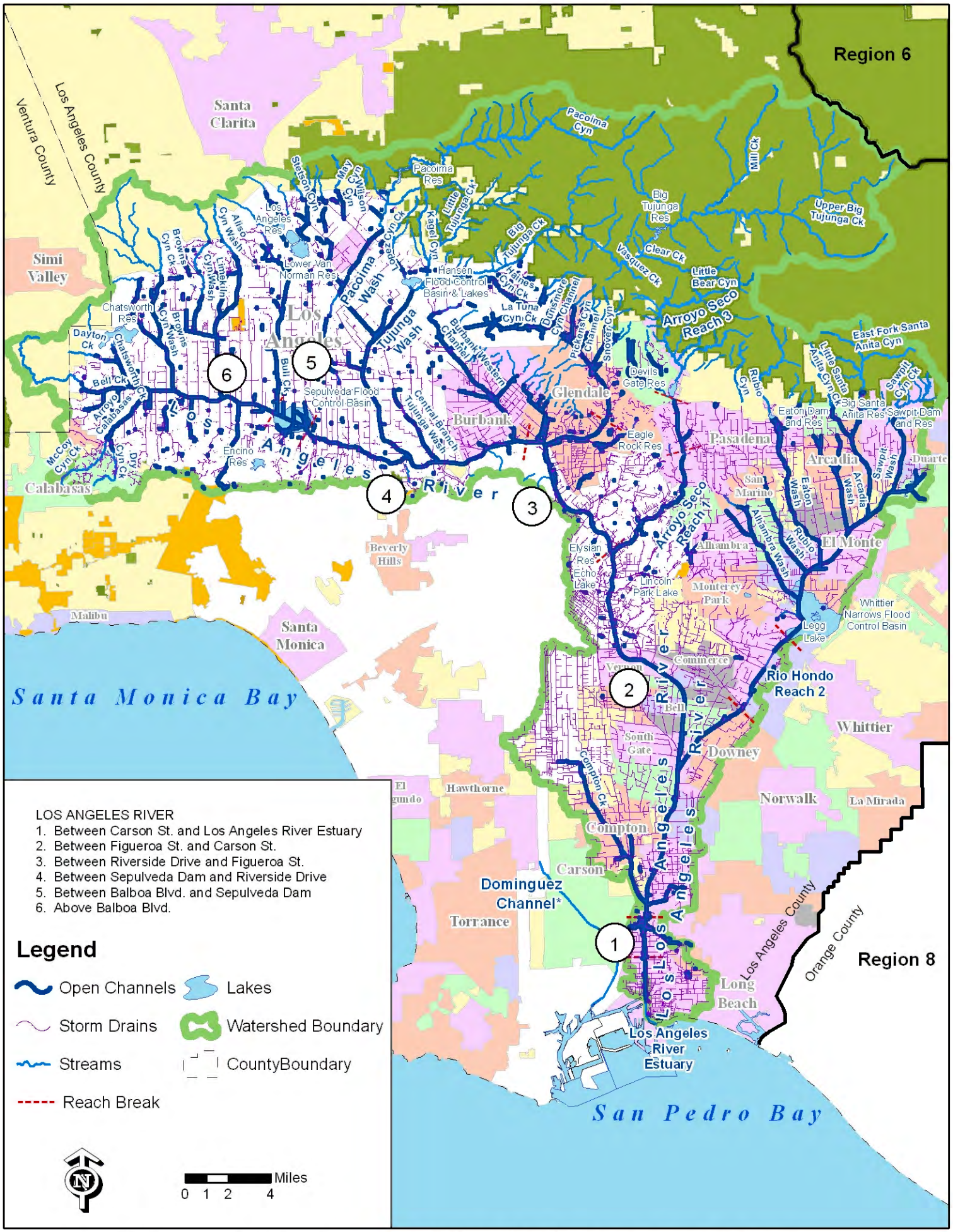


Figure C-4: Los Angeles River Watershed Management Area Flow Schematic.

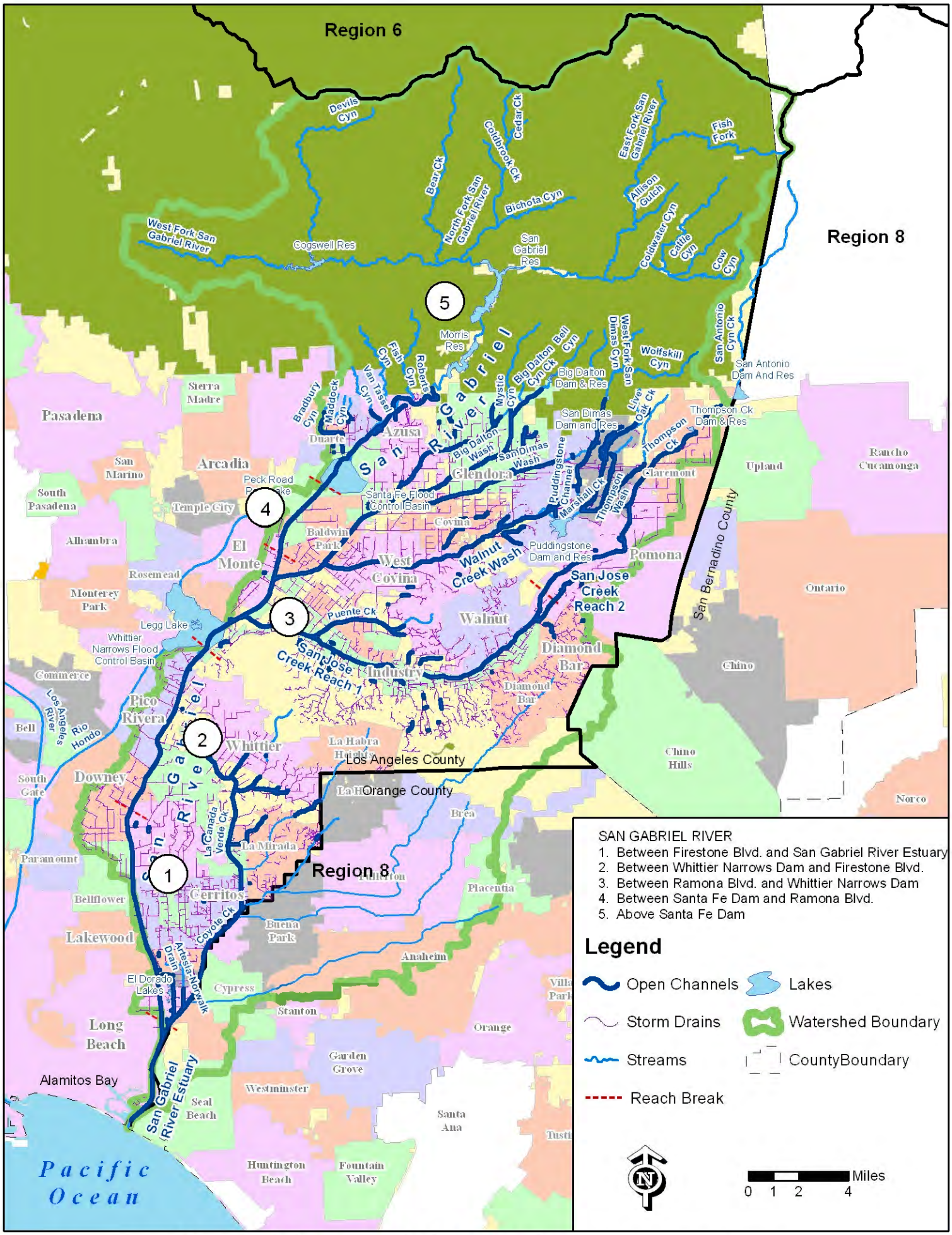


Figure C-5: San Gabriel River Watershed Management Area Flow Schematic.

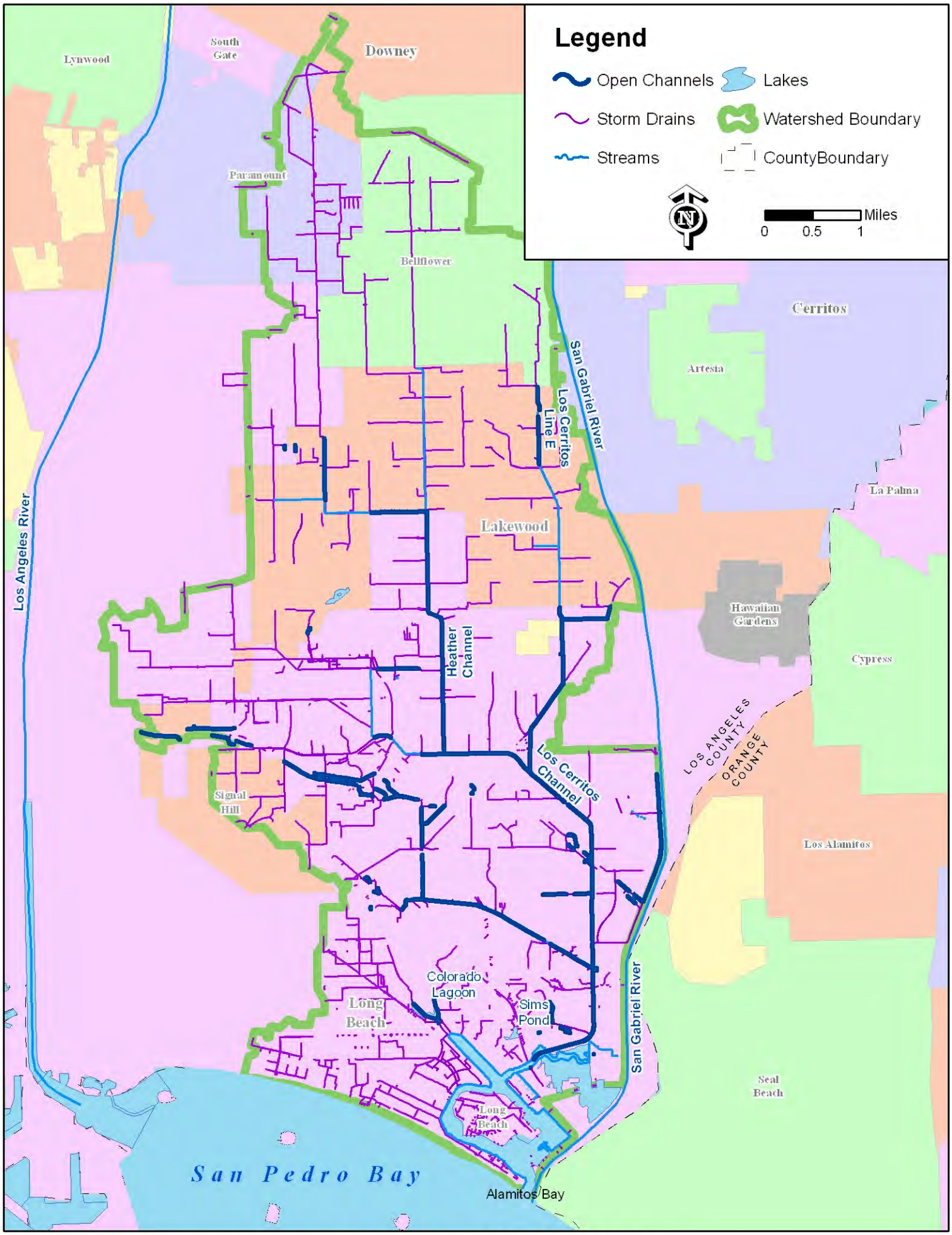


Figure C-6: Los Cerritos Channel and Alamitos Bay Watershed Management Area Flow Schematic.

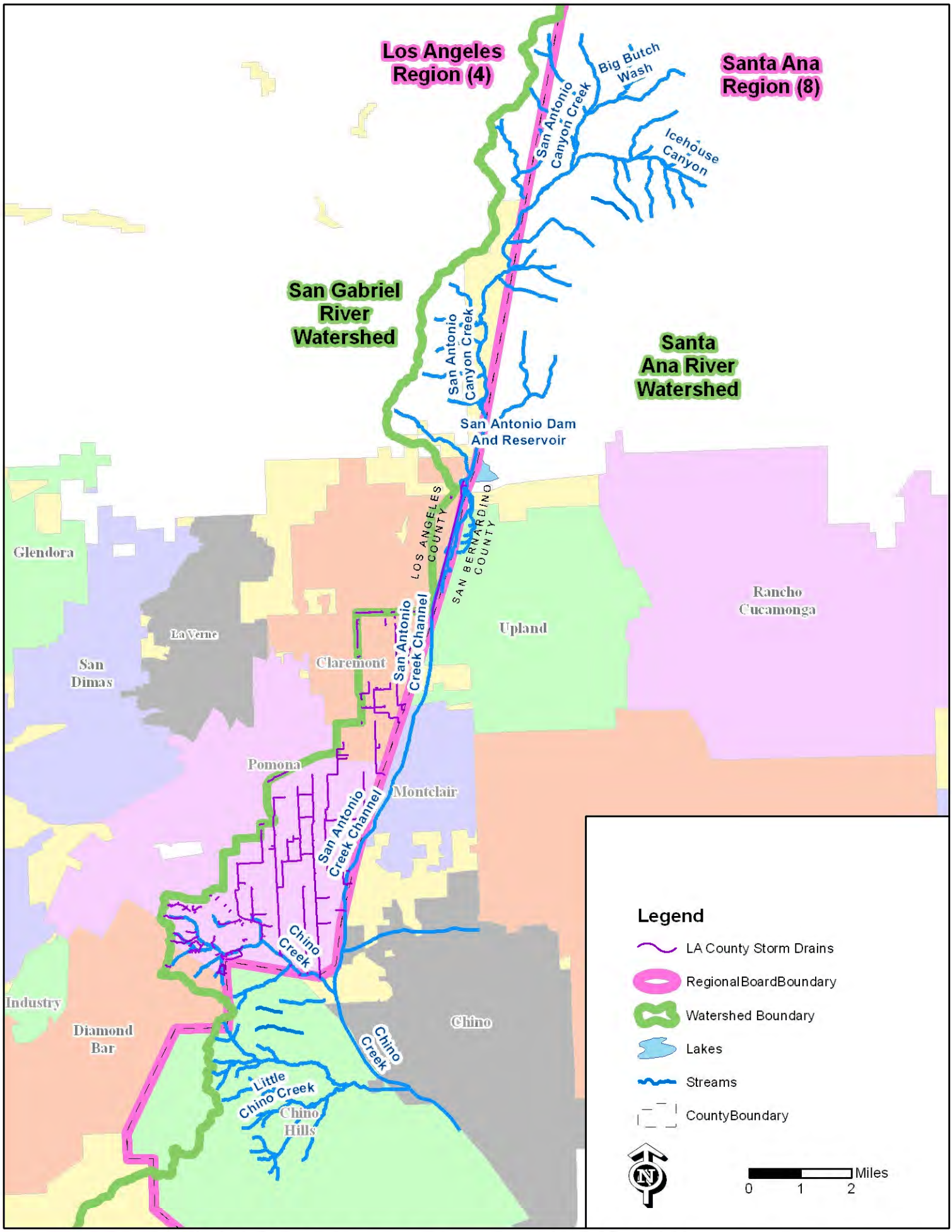


Figure C-7: Middle San Antonio Creek Subwatershed Flow Schematic.

ATTACHMENT D – STANDARD PROVISIONS

I. STANDARD PROVISIONS – PERMIT COMPLIANCE

A. Duty to Comply

1. Dischargers must comply with all of the terms, requirements, and conditions of this Order. Any noncompliance constitutes a violation of the Clean Water Act, its regulations, and the California Water Code and is grounds for enforcement action, for permit termination, revocation and reissuance, or modification; denial of a permit renewal application; or a combination thereof [40 CFR section 122.41(a); California Water Code sections 13261, 13263, 13263, 13265, 13268, 13300, 13301, 13304, 13340, 13350, 13385].

2. Dischargers must comply with effluent standards or prohibitions established under section 307(a) of the CWA for toxic pollutants and with standards for sewage sludge use or disposal established under section 405(d) of the CWA within the time provided in the regulations that establish these standards or prohibitions, even if this Order has not yet been modified to incorporate the requirement [40 CFR section 122.41(a)(1)].

B. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for a Permittee 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 [40 CFR section 122.41(c)].

C. Duty to Mitigate

Dischargers shall take all reasonable steps to minimize 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 [40 CFR section 122.41(d)].

D. Proper Operation and Maintenance

Dischargers 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 Permittee 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 backup or auxiliary facilities or similar systems that are installed by a Permittee only when necessary to achieve compliance with the conditions of this Order [40 CFR section 122.41(e)].

E. Property Rights

1. This Order does not convey any property rights of any sort, or any exclusive privileges [40 CFR section 122.41(g)].

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 [40 CFR section 122.5(c)].

F. Inspection and Entry

Dischargers shall allow the Regional Water Board, State Water Board, USEPA, and/or their authorized representatives (including an authorized contractor acting as their representative), upon the presentation of credentials and other documents, as may be required by law, to [33 U.S.C. section 1318(a)(4)(B); 40 CFR section 122.41(i); California Water Code sections 13267 and 13383]:

1. Enter upon the Permittee's premises where a regulated facility or activity is located or conducted, or where records are kept under the conditions of this Order [33 U.S.C. section 1318(a)(4)(B)(i); 40 CFR section 122.41(i)(1); California Water Code sections 13267 and 13383];

2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Order [33 U.S.C. section 1318(a)(4)(B)(ii); 40 CFR section 122.41(i)(2); California Water Code sections 13267 and 13383];

3. Inspect and photograph, at reasonable times, any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order [33 U.S.C. section 1318(a)(4)(B)(ii); 40 CFR section 122.41(i)(3)]; California Water Code sections 13267 and 13383; and

4. Sample or monitor, at reasonable times, for the purposes of assuring Order compliance or as otherwise authorized by the CWA or the California Water Code, any substances or parameters at any location [33 U.S.C. section 1318(a)(4)(B)(ii); 40 CFR section 122.41(i)(4); California Water Code sections 13267 and 13383].

G. Bypass

1. Definitions

a. “Bypass” means the intentional diversion of waste streams from any portion of a treatment facility [40 CFR section 122.41(m)(1)(i)].

b. “Severe property damage” means substantial physical damage to property, damage to the treatment facilities, which causes them to become inoperable, or substantial and permanent loss of natural resources 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 [40 CFR section 122.41(m)(1)(ii)].

2. *Bypass not exceeding limitations.* Dischargers may allow any bypass to occur which does not cause exceedances of effluent limitations, but only if it is also for essential maintenance to assure efficient operation. These bypasses are not subject to the

provisions listed in Standard Provisions – Permit Compliance I.G.3, I.G.4, and I.G.5 below [40 CFR section 122.41(m)(2)].

3. *Prohibition of bypass.* Bypass is prohibited, and the Regional Water Board may take enforcement action against a Permittee for bypass, unless [40 CFR section 122.41(m)(4)(i)]:

a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage [40 CFR section 122.41(m)(4)(i)(A)];

b. 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 that occurred during normal periods of equipment downtime or preventive maintenance [40 CFR section 122.41(m)(4)(i)(B)]; and

c. The Permittee submitted notices to the Regional Water Board as required under Standard Provisions – Permit Compliance I.G.5 below [40 CFR section 122.41(m)(4)(i)(C)].

4. The Regional Water Board may approve an anticipated bypass, after considering its adverse effects, if the Regional Water Board determines that it will meet the three conditions listed in Standard Provisions – Permit Compliance I.G.3 above [40 CFR section 122.41(m)(4)(ii)].

5. Notice

a. *Anticipated bypass*. If a Permittee knows in advance of the need for a bypass, it shall submit a notice, if possible at least 10 days before the date of the bypass [40 CFR section 122.41(m)(3)(i)].

b. *Unanticipated bypass*. Dischargers shall submit notice of an unanticipated bypass as required in Standard Provisions - Reporting V.E below (24-hour notice) [40 CFR section 122.41(m)(3)(ii)].

H. Upset

"Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the Permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation [40 CFR section 122.41(n)(1)].

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 I.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 [40 CFR section 122.41(n)(2)].

2. *Conditions necessary for a demonstration of upset*. A Permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that [40 CFR section 122.41(n)(3)]:

a. An upset occurred and that the Permittee can identify the cause(s) of the upset [40 CFR section 122.41(n)(3)(i)];

b. The permitted facility was, at the time, being properly operated [40 CFR section 122.41(n)(3)(ii)];

c. The Permittee submitted notice of the upset as required in Standard Provisions – Reporting V.E.2.b below (24-hour notice) [40 CFR section 122.41(n)(3)(iii)]; and

d. The Permittee complied with any remedial measures required under Standard Provisions – Permit Compliance I.C above [40 CFR section 122.41(n)(3)(iv)].

3. *Burden of proof*. In any enforcement proceeding, the Permittee seeking to establish the occurrence of an upset has the burden of proof [40 CFR section 122.41(n)(4)].

II. STANDARD PROVISIONS – PERMIT ACTION

A. General

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

B. Duty to Reapply

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

C. Transfers

This Order is not transferable to any person except after notice to the Regional Water Board. The Regional Water Board may require modification or revocation and reissuance of the Order to change the name of the Permittee and incorporate such other requirements as may be necessary under the CWA and the California Water Code [40 CFR sections 122.41(l)(3) and 122.61].

III. 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 must be conducted according to test procedures approved under 40 CFR Part 136 for the analysis of pollutants unless another test procedure is required under 40 CFR subchapters N or O or is otherwise specified in this Order for such pollutants [40 CFR sections 122.41(j)(4) and 122.44(i)(1)(iv)].

IV. STANDARD PROVISIONS – RECORDS

A. Except for records of monitoring information required by this Order related to the Permittee'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 Permittee 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 time [40 CFR section 122.41(j)(2)].

B. Records of monitoring information shall include:

1. The date, exact place, and time of sampling or measurements [40 CFR section 122.41(j)(3)(i)];

2. The individual(s) who performed the sampling or measurements [40 CFR section 122.41(j)(3)(ii)];

3. The date(s) analyses were performed [40 CFR section 122.41(j)(3)(iii)];

4. The individual(s) who performed the analyses [40 CFR section 122.41(j)(3)(iv)];

5. The analytical techniques or methods used [40 CFR section 122.41(j)(3)(v)]; and

6. The results of such analyses [40 CFR section 122.41(j)(3)(vi)].

C. Claims of confidentiality for the following information will be denied [40 CFR section 122.7(b)]:

1. The name and address of any permit applicant or Permittee [40 CFR section 122.7(b)(1)]; and

2. Permit applications and attachments, permits, and effluent data [40 CFR section 122.7(b)(2)].

V. STANDARD PROVISIONS – REPORTING

A. Duty to Provide Information

Dischargers shall furnish to the Regional Water Board, State Water Board, or USEPA within a reasonable time, any information which the Regional Water Board, State Water Board, or USEPA 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, Dischargers shall also furnish to the Regional Water Board, State Water Board, or USEPA copies of records required to be kept by this Order [40 CFR section 122.41(h); California Water Code section 13383].

B. Signatory and Certification Requirements

1. All applications, reports, or information submitted to the Regional Water Board, State Water Board, and/or USEPA shall be signed and certified in accordance with Standard Provisions – Reporting V.B.2, V.B.3, V.B.4, and V.B.5 below [40 CFR section 122.41(k)(1)].

2. All applications submitted to the Regional Water Board shall be signed by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer includes: (i) the chief executive officer of the agency (e.g., Mayor), or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., City Manager, Director of Public Works, City Engineer, etc.).[40 CFR section 122.22(a)(3)].

3. All reports required by this Order and other information requested by the Regional Water Board, State Water Board, or USEPA shall be signed by a person described in Standard Provisions – Reporting V.B.2 above, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

a. The authorization is made in writing by a person described in Standard Provisions – Reporting V.B.2 above [40 CFR section 122.22(b)(1)];

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.) [40 CFR section 122.22(b)(2)]; and

c. The written authorization is submitted to the Regional Water Board [40 CFR section 122.22(b)(3)].

4. If an authorization under Standard Provisions – Reporting V.B.3 above 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 V.B.3 above must be submitted to the Regional Water Board prior to or together with any reports, information, or applications, to be signed by an authorized representative [40 CFR section 122.22(c)].

5. Any person signing a document under Standard Provisions – Reporting V.B.2 or V.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." [40 CFR section 122.22(d)].

C. Monitoring Reports

1. Monitoring results shall be reported at the intervals specified in the Monitoring and Reporting Program (Attachment E) in this Order [40 CFR section 122.41(l)(4)].

2. Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Regional Water Board or State Water Board for reporting results of monitoring of sludge use or disposal practices [40 CFR section 122.41(l)(4)(i)].

3. If a Permittee monitors any pollutant more frequently than required by this Order using test procedures approved under 40 CFR Part 136, or another method required for an industry-specific waste stream under 40 CFR subchapters N or O, the results of such monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Regional Water Board [40 CFR section 122.41(l)(4)(ii)].

4. Calculations for all limitations, which require averaging of measurements, shall utilize an arithmetic mean unless otherwise specified by the Regional Water Board in this Order [40 CFR section 122.41(l)(4)(iii)].

D. Compliance Schedules

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 [40 CFR section 122.41(l)(5)].

E. Twenty-Four Hour Reporting

1. Dischargers shall report any noncompliance that may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the Permittee becomes aware of the circumstances. A written submission shall also be provided within five (5) days of the time the Permittee 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 [40 CFR section 122.41(l)(6)(i)].

2. The following shall be included as information that must be reported within 24 hours under this paragraph [40 CFR section 122.41(l)(6)(ii)]:

a. Any unanticipated bypass that exceeds any effluent limitation in this Order [40 CFR sections 122.41(l)(6)(ii)(A) and 122.41(g)].

b. Any upset that exceeds any effluent limitation in this Order [40 CFR section 122.41(l)(6)(ii)(B)].

c. Violation of a maximum daily discharge limitation for any of the pollutants listed by the Regional Water Board in this Order to be reported within 24 hours [40 CFR section (l)(6)(ii)(C) and 122.44(g)].

3. The Regional Water Board may waive the above-required written report under this provision on a case-by-case basis if an oral report has been received within 24 hours [40 CFR section 122.41(l)(6)(iii)].

F. Planned Changes

Dischargers shall give notice to the Regional Water Board as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required under this provision only when [40 CFR section 122.41(l)(1)]:

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 section 122.29(b) [40 CFR section 122.41(l)(1)(i)]; or

2. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are not subject to effluent limitations in this Order [40 CFR section 122.41(l)(1)(ii)].

The alteration or addition results in a significant change in the Permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application

process or not reported pursuant to an approved land application plan [40 CFR section 122.41(l)(1)(iii)].

G. Anticipated Noncompliance

Dischargers shall give advance notice to the Regional Water Board of any planned changes in the permitted facility or activity that may result in noncompliance with permit requirements [40 CFR section 122.41(l)(2)].

H. Other Noncompliance

Dischargers shall report all instances of noncompliance not reported under Standard Provisions – Reporting V.C, V.D, and V.E above at the time monitoring reports are submitted. The reports shall contain the information listed in Standard Provision – Reporting V.E above [40 CFR section 122.41(l)(7)].

I. Other Information

When a Permittee 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 Water Board, State Water Board, or USEPA, the Permittee shall promptly submit such facts or information [40 CFR section 122.41(l)(8)].

VI. STANDARD PROVISIONS – ENFORCEMENT

A. The Regional Water Board and State Water Board is authorized to enforce the terms of this Order under several provisions of the California Water Code, including, but not limited to, sections 13268, 13385, 13386, and 13387.

B. The CWA provides that any person who violates section 301, 302, 306, 307, 308, 318 or 405 of the CWA, or any permit condition or limitation implementing any such sections in a permit issued under section 402, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the CWA is subject to a civil penalty not to exceed $25,000 per day for each violation. The CWA provides that any person who negligently violates sections 301, 302, 306, 307, 308, 318, or 405 of the CWA, or any condition or limitation implementing any of such sections in a permit issued under section 402 of the CWA, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of the CWA, is subject to criminal penalties of $2,500 to $25,000 per day of violation, or imprisonment of not more than one (1) year, or both. In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than $50,000 per day of violation, or by imprisonment of not more than two (2) years, or both. Any person who knowingly violates such sections, or such conditions or limitations is subject to criminal penalties of $5,000 to $50,000 per day of violation, or imprisonment for not more than three (3) years, or both. In the case of a second or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than $100,000 per day of violation, or imprisonment of not more than six (6) years, or both. Any person who knowingly violates section 301, 302, 303, 306, 307, 308, 318

or 405 of the CWA, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of the CWA, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than $250,000 or imprisonment of not more than 15 years, or both. In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than $500,000 or by imprisonment of not more than 30 years, or both. An organization, as defined in section 309(c)(3)(B)(iii) of the CWA, shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than $1,000,000 and can be fined up to $2,000,000 for second or subsequent convictions [40 CFR section 122.41(a)(2)] [California Water Code sections 13385 and 13387].

C. Any person may be assessed an administrative penalty by the Regional Water Board for violating section 301, 302, 306, 307, 308, 318 or 405 of the CWA, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of the CWA. Administrative penalties for Class I violations are not to exceed $10,000 per violation, with the maximum amount of any Class I penalty assessed not to exceed $25,000. Penalties for Class II violations are not to exceed $10,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed $125,000 [40 CFR section 122.41(a)(3)].

D. The CWA provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than $20,000 per day of violation, or by imprisonment of not more than 4 years, or both [40 CFR section 122.41(j)(5)].

E. The CWA provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this Order, including monitoring reports or reports of compliance or noncompliance 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 section 122.41(k)(2)].

VII. ADDITIONAL STANDARD CONDITIONS APPLICABLE TO SPECIFIC CATEGORIES OF NPDES PERMITS [40 CFR SECTION 122.42]

A. *Municipal separate storm sewer systems.* The operator of a large or medium MS4 or a municipal separate storm sewer that has been designated by the Regional Water Board or USEPA under 40 CFR section 122.26(a)(1)(v) must submit an annual report by the anniversary of the date of the issuance of the permit for such MS4. The report shall include [40 CFR section 122.42(c)]:

1. The status of implementing the components of the storm water management program that are established as permit conditions [40 CFR section 122.42(c)(1)];

2. Proposed changes to the storm water management programs that are established as permit condition. Such proposed changes shall be consistent with 40 CFR section 122.26(d)(2)(iii) [40 CFR section 122.42(c)(2)]; and

3. Revisions, if necessary, to the assessment of controls and the fiscal analysis reported in the permit application under 40 CFR section 122.26(d)(2)(iv) and (d)(2)(v) [40 CFR section 122.42(c)(3)];

4. A summary of data, including monitoring data, that is accumulated throughout the reporting year [40 CFR section 122.42(c)(4)];

5. Annual expenditures and budget for year following each annual report [40 CFR section 122.42(c)(5)];

6. A summary describing the number and nature of enforcement actions, inspections, and public education programs [40 CFR section 122.42(c)(6)];

7. Identification of water quality improvements or degradation [40 CFR section 122.42(c)(7)];

B. *Storm water discharges.* The initial permits for discharges composed entirely of storm water issued pursuant to 40 CFR section 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. [40 CFR section 122.42(d)].

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

LOS ANGELES REGION

320 W. 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576 - 6600 • Fax (213) 576 - 6640
http://www.waterboards.ca.gov/losangeles

MONITORING AND REPORTING PROGRAM - No. CI-6948

FOR

ORDER R4-2012-0175
NPDES PERMIT NO. CAS004001

WASTE DISCHARGE REQUIREMENTS FOR MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) DISCHARGES WITHIN THE COASTAL WATERSHEDS OF LOS ANGELES COUNTY, EXCEPT THOSE DISCHARGES ORIGINATING FROM THE CITY OF LONG BEACH MS4

November 8, 2012

Table of Contents

I. MONITORING AND REPORTING PROGRAM (MRP) 3
II. PURPOSE AND SCOPE 3
III. GENERAL MONITORING AND REPORTING REQUIREMENTS 5
IV. INTEGRATED MONITORING PROGRAMS 6
V. TMDL MONITORING PLANS 8
VI. RECEIVING WATER MONITORING 13
VII. OUTFALL BASED MONITORING 20
VIII. STORM WATER OUTFALL BASED MONITORING 21
IX. NON-STORM WATER OUTFALL BASED SCREENING AND MONITORING 23
X. NEW DEVELOPMENT/RE-DEVELOPMENT EFFECTIVENESS TRACKING 28
XI. REGIONAL STUDIES 29
XII. AQUATIC TOXICITY MONITORING METHODS 30
XIII. SPECIAL STUDIES 35
XIV. STANDARD MONITORING AND REPORTING PROVISIONS 35
XV. ANNUAL REPORT SUBMITTAL TIMELINES 38
XVI. ANNUAL REPORTING REQUIREMENT OBJECTIVES 38
XVII. WATERSHED SUMMARY INFORMATION, ORGANIZATION AND CONTENT 39
XVIII. ANNUAL ASSESSMENT AND REPORTING 40
XIX. TMDL REPORTING 45

I. MONITORING AND REPORTING PROGRAM (MRP)

Section 308(a) of the federal Clean Water Act and sections 122.41(h), (j)-(l), 122.44(i), and 122.48 of Title 40 of the Code of Federal Regulations require that all National Pollutant Discharge Elimination System (NPDES) permits specify monitoring and reporting requirements. Federal regulations applicable to large and medium MS4s also specify additional monitoring and reporting requirements. (40 C.F.R. §§ 122.26(d)(2)(i)(F) & (d)(2)(iii)(D), 122.42(c).) California Water Code section 13383 further authorizes the California Regional Water Quality Control Board, Los Angeles Region (Regional Water Board) to establish monitoring, inspection, entry, reporting, and recordkeeping requirements. This MRP establishes monitoring, reporting, and recordkeeping requirements that implement the federal and California laws and/or regulations.

II. PURPOSE AND SCOPE

A. Primary Objectives

The primary objectives of the Monitoring Program are to:

1. Assess the chemical, physical, and biological impacts of discharges from the municipal storm water sewer system (MS4) on receiving waters.
2. Assess compliance with receiving water limitations and water quality-based effluent limitations (WQBELs) established to implement Total Maximum Daily Load (TMDL) wet weather and dry weather wasteload allocations (WLAs).
3. Characterize pollutant loads in MS4 discharges.
4. Identify sources of pollutants in MS4 discharges.
5. Measure and improve the effectiveness of pollutant controls implemented under this Order.

B. Purpose

The results of the monitoring requirements outlined below shall be used to refine control measures for the reduction of pollutant loading and the protection and enhancement of the beneficial uses of the receiving waters in Los Angeles County.

C. Provision for Integrated Approach

The Monitoring Program provides flexibility to allow Permittees to develop an integrated monitoring program to address all of the monitoring requirements of this Order and other monitoring obligations or requirements in a cost efficient and effective manner.

D. Provision for a Coordinated Integrated Approach

The Monitoring Program provides flexibility to allow Permittees to coordinate monitoring efforts on a watershed or subwatershed basis to leverage monitoring resources in an effort to increase cost-efficiency and effectiveness and to closely

align monitoring with TMDL monitoring requirements and Watershed Management Programs.

E. Monitoring Program Elements

The Monitoring Program shall include the following elements:

1. **Receiving water monitoring** shall be performed at previously designated mass emission stations, TMDL receiving water compliance points, as designated in Regional Water Board Executive Officer approved TMDL Monitoring Plans (see Table E-1 for a list of approved TMDL Monitoring Plans), and additional receiving water locations representative of the impacts from MS4 discharges. The objectives of the receiving water monitoring include the following:
   - **a.** Determine whether the receiving water limitations are being achieved,
   - **b.** Assess trends in pollutant concentrations over time, or during specified conditions,
   - **c.** Determine whether the designated beneficial uses are fully supported as determined by water chemistry, as well as aquatic toxicity and bioassessment monitoring.
2. **Storm water outfall based monitoring**; including TMDL monitoring requirements specified in approved TMDL Monitoring Plans (see Table E-1). Outfall monitoring locations shall be representative of the land uses within the Permittee's jurisdiction. The objectives of the storm water outfall based monitoring program include the following:
   - **a.** Determine the quality of a Permittee's discharge relative to municipal action levels, as described in Attachment G of this Order,
   - **b.** Determine whether a Permittee's discharge is in compliance with applicable storm water WQBELs derived from TMDL WLAs,
   - **c.** Determine whether a Permittee's discharge causes or contributes to an exceedance of receiving water limitations.
3. **Non-storm water outfall based monitoring**; including TMDL monitoring requirements specified in approved TMDL Monitoring Plans (see Table E-1). Outfalls with significant non-storm water discharges that remain unaddressed after source identification shall be monitored. The objectives of the non-storm water outfall based monitoring program include the following:
   - **a.** Determine whether a Permittee's discharge is in compliance with applicable non-storm water WQBELs derived from TMDL WLAs,
   - **b.** Determine whether a Permittee's discharge exceeds non-storm water action levels, as described in Attachment G of this Order,
   - **c.** Determine whether a Permittee's discharge contributes to or causes an exceedance of receiving water limitations,

d. Assist a Permittee in identifying illicit discharges as described in Part VI.D.10 of this Order.

4. **New Development/Re-development effectiveness tracking**. The objectives of best management practices (BMP) effectiveness tracking is to track whether the conditions in the building permit issued by the Permittee are implemented to ensure the volume of storm water associated with the design storm is retained on-site as required by Part VI.D.7.c.i. of this Order.

5. **Regional studies** are required to further characterize the impact of the MS4 discharges on the beneficial uses of the receiving waters. Regional studies shall include the Southern California Stormwater Monitoring Coalition (SMC) Regional Watershed Monitoring Program (bioassessment) and special studies as specified in approved TMDLs (see Section XIX TMDL Reporting, below).

III. GENERAL MONITORING AND REPORTING REQUIREMENTS

A. Monitoring shall be conducted in accordance with the requirements specified in Attachment D to this Order (Part III, Standard Provisions - Monitoring).

B. Records of monitoring information shall include information required under Attachment D to this Order (Part IV, Standard Provisions - Records).

C. All applications, reports, plans, or other information submitted to the Regional Water Board, State Water Board, and/or USEPA shall be signed and certified in accordance with Attachment D to this Order (Part V.B, Standard Provisions - Reporting, Signatory and Certification Requirements).

D. Monitoring results shall be reported in accordance with the requirements specified in Attachment D to this Order (Part V.C, Standard Provisions - Reporting, Monitoring Reports).

E. All monitoring and reporting shall be conducted in accordance with the Standard Monitoring Provisions specified in Part XIV of this MRP.

F. Sampling Methods

1. Sampling methods shall be fully described in each Permittee's Integrated Monitoring Program (IMP) or Coordinated Integrated Monitoring Program (CIMP) and according to the provisions of the Standard Provisions for Monitoring described in Attachment D to this Order and Part XIV of this MRP.

2. Grab samples shall be taken for constituents that are required to be collected as such (e.g., pathogen indicator bacteria, oil and grease, cyanides, and volatile organics); in instances where grab samples are generally expected to be sufficient to characterize water quality conditions (primarily dry weather); and where the sample location limits Permittees' ability to install an automated sampler, as provided for in an approved IMP or CIMP.

3. At a minimum, a sufficient volume of sample must be collected to perform all of the required biological and chemical tests, including TIEs where aquatic toxicity is observed during the sample event.

4. Sampling and monitoring methods for trash shall be conducted in accordance with the applicable requirements specified in Part VI.E.5 of this Order.

5. Flow may be estimated using USEPA methods at receiving water monitoring stations where flow measuring equipment is not in place.

6. Flow may be estimated for storm water outfall monitoring based on drainage area, impervious cover, and precipitation data as approved in an IMP or CIMP.

G. Analytical Procedures

1. Suspended-Sediment Concentration (SSC) shall by analyzed per American Society for Testing and Materials (ASTM) Standard Test Method D-3977-97.

2. Monitoring methods for trash shall be conducted in accordance with the applicable requirements specified in Part VI.E.5 of this Order.

3. Aquatic toxicity shall be monitored in accordance with Part XI of this MRP.

4. All other parameters shall be analyzed according to the provisions of the Standard Provisions for Monitoring described in Attachment D to this Order and Part XIV of this MRP.

H. Reporting

1. Reporting requirements related to the monitoring of trash shall be conducted in accordance with Part VI.E.5.c of this Order.

2. Monitoring results submitted to the Regional Water Board shall be consistent with the requirements identified in Part XVIII.A.5 and Part XVIII.A.7 of this MRP.

IV. INTEGRATED MONITORING PROGRAMS

A. Integrated Monitoring Program (IMP)

1. Each Permittee may develop an Integrated Monitoring Program designed to satisfy the monitoring requirements of this Order.
2. The monitoring requirements contained in TMDL Monitoring Plans approved by the Executive Officer of the Regional Water Board are incorporated by reference into this MRP (See Table E-1 for a list of approved TMDL Monitoring Plans).

3. The Integrated Monitoring Program may leverage monitoring resources by selecting monitoring locations, parameters, or monitoring techniques that will satisfy multiple monitoring requirements.

4. Where appropriate, the Integrated Monitoring Program may develop and utilize alternative approaches to meet the Primary Objectives (Part II.A). Sufficient justification shall be provided in the IMP for the alternative approach(es). Such alternative approaches shall be subject to public review and final approval by the Regional Water Board Executive Officer.

5. The requirements of an approved TMDL Monitoring Plan may be modified by an IMP that is subsequently approved by the Executive Officer of the Regional Water Board.

6. At a minimum, the IMP must address all TMDL and Non-TMDL monitoring requirements of this Order, including receiving water monitoring, storm water outfall based monitoring, non-storm water outfall based monitoring, and regional water monitoring studies, except as provided in Parts IV.B.2 and 3 of this MRP.

B. Coordinated Integrated Monitoring Program (CIMP)

1. Benefits of the CIMP Approach

a. The CIMP provides Permittees opportunities to increase the cost efficiency and effectiveness of the monitoring program. The greatest efficiency may be achieved when a CIMP is designed and implemented on a watershed basis.

b. A CIMP may be employed to implement regional studies, where a single Permittee takes the lead in directing the study, and the other Permittees provide funding or in lieu services.

2. Permittees are encouraged to coordinate their monitoring programs with other Permittees to develop and implement a CIMP. A CIMP may be developed to address one or more of the required monitoring elements (i.e., receiving water monitoring, outfall based monitoring, regional monitoring or special studies) and may be county-wide or limited to a single watershed, sub-watershed or defined jurisdictional boundary.

3. The requirements of an approved TMDL Monitoring Plan may be modified by an IMP or CIMP that is subsequently approved by the Executive Officer of the Regional Water Board.

4. A Permittee shall not be required to submit an IMP if all of the applicable monitoring requirements in this Order are addressed in a CIMP, to which the Permittee is a participant.

5. If the CIMP addresses some but not all of the applicable monitoring requirements required under this Order, then each Permittee shall submit an IMP that references the CIMP. The Permittees must describe how together, the IMP and CIMP, fulfill all of the applicable monitoring requirements contained in this Order.

6. Where appropriate, the CIMP may develop and utilize alternative approaches to meet the Primary Objectives (Part II.A). Sufficient justification shall be provided in the CIMP for the alternative approach(es). Such alternative approaches shall be subject to public review and final approval by the Regional Water Board Executive Officer.

C. Schedule for Submitting the Monitoring Plan to the Regional Water Board and Conducting Outfall Screening

1. Within six (6) months after the effective date of this Order, each Permittee shall submit a letter of intent to the Executive Officer of the Regional Water Board describing whether it intends to follow an IMP or CIMP approach for each of the required monitoring plan elements.
2. Each Permittee not electing to develop a Watershed Management Program (WMP) or Enhanced Watershed Management Program (EWMP) shall submit an IMP plan addressing monitoring requirements that the Permittee intends to implement individually to the Executive Officer of the Regional Water Board within twelve (12) months after the effective date of this Order.
3. Permittees electing to develop a WMP or EWMP shall submit an IMP or CIMP plan, to the Executive Officer of the Regional Water Board concurrently with their draft WMP.
4. Permittees electing to develop an enhanced WMP shall submit an IMP or CIMP plan to the Executive Officer of the Regional Water Board within 18 months after the effective date of this Order.
5. If upon finalization of the CIMP plan, a Permittee that has developed an IMP determines that its IMP plan must be revised to include monitoring requirements not covered under the final CIMP, the revised IMP plan shall be submitted to the Executive Officer of the Regional Water Board within 60 days after approval of the CIMP plan by the Executive Officer of the Regional Water Board.
6. Monitoring shall commence within 30 days after approval of the IMP, or within 90 days after approval of the CIMP, by the Executive Officer of the Regional Water Board.
7. If a Permittee elects not to develop or participate in an IMP or CIMP, monitoring shall be conducted on a jurisdictional basis per the requirements of this MRP, beginning six (6) months after the effective date of this Order.
8. Monitoring requirements pursuant to Order No. 01-182 and Monitoring and Reporting Program CI 6948, and pursuant to approval TMDL monitoring plans identified in Table E-1, shall remain in effect until the Executive Officer of the Regional Water Board approves a Permittee(s) IMP and/or CIMP plan(s).

V. TMDL MONITORING PLANS

Table E-1. Approved TMDL Monitoring Plans by Watershed Management Area

TMDL	Comment	Date of Final Plan	Regional Water Board Approval Date
Santa Clara River Watershed Management Area			
Santa Clara River Nitrogen Compounds TMDL	Monitoring Plan was due March 23, 2005.	March 2006	Has not been approved.
Upper Santa Clara River Chloride TMDL	Monitoring Plan was not required.	N/A	N/A
Lake Elizabeth, Munz Lake, and Lake Hughes Trash TMDL (Lake Elizabeth only)	The County of Los Angeles Trash TMDL Monitoring and Reporting Plan for Lake Elizabeth, Munz Lake, and Lake Hughes	June 25, 2009	March 25, 2009
Santa Clara River Estuary and Reaches 3, 5, 6, and 7 Indicator Bacteria TMDL	Monitoring Plan is due on March 21, 2013.	---	---
Santa Monica Bay Watershed Management Area			
Santa Monica Bay Beaches Bacteria TMDL (Wet and Dry)	Santa Monica Bay Beaches Bacterial TMDLs Coordinated Shoreline Monitoring Plan	April 7, 2004	January 8, 2004
Santa Monica Bay Nearshore and Offshore Debris TMDL	Monitoring Plan is due on September 20, 2012.	---	---
Santa Monica Bay TMDL for DDTs and PCBs	USEPA Established TMDL	N/A	N/A
Malibu Creek Subwatershed			
Malibu Creek and Lagoon Bacteria TMDL	Malibu Creek and Lagoon Bacteria TMDL Compliance Monitoring Plan	February 25, 2008	April 8, 2008
Malibu Creek Watershed Trash TMDL	Malibu Creek Watershed Trash Monitoring and Reporting Plan (TMRP)	April 28, 2010	Has not been approved.

TMDL	Comment	Date of Final Plan	Regional Water Board Approval Date
Malibu Creek Watershed Nutrients TMDL	USEPA Established TMDL	N/A	N/A
Ballona Creek Subwatershed			
Ballona Creek Trash TMDL	Monitoring Plan was not required.	N/A	N/A
Ballona Creek Estuary Toxic Pollutants TMDL	Ballona Creek Metals TMDL and Ballona Creek Estuary Toxic Pollutants TMDL Coordinated Monitoring Plan	May 4, 2009	June 25, 2009
Ballona Creek, Ballona Estuary and Sepulveda Channel Bacteria TMDL	Ballona Creek, Ballona Estuary, & Sepulveda Channel Bacteria TMDL Coordinated Monitoring Plan	January 29, 2009	December 16, 2008
Ballona Creek Metals TMDL	Ballona Creek Metals TMDL and Ballona Creek Estuary Toxic Pollutants TMDL Coordinated Monitoring Plan	May 4, 2009	June 25, 2009
Ballona Creek Wetlands TMDL for Sediment and Invasive Exotic Vegetation	USEPA Established TMDL	N/A	N/A
Marina del Rey Subwatershed			
Marina del Rey Harbor Mothers' Beach and Back Basins Bacteria TMDL	Marina Del Rey Harbor Mothers' Beach and Back Basins Bacterial TMDL Coordinated Monitoring Plan	June 25, 2007	February 1, 2007
Marina del Rey Harbor Toxic Pollutants TMDL	Marina Del Rey Harbor Toxic Pollutants Total Maximum Daily Load Coordinated Monitoring Plan	March 31, 2008	March 3, 2009
Dominguez Channel and Greater Harbors Waters Watershed Management Area			

TMDL	Comment	Date of Final Plan	Regional Water Board Approval Date
Los Angeles Harbor Bacteria TMDL (Inner Cabrillo Beach and Main Ship Channel)	Monitoring Plan was not required.	N/A	N/A
Machado Lake Trash TMDL	Trash Monitoring & Reporting Plan: Machado Lake Trash TMDL	September 5, 2008	December 9, 2008
	City of Rolling Hills Trash Monitoring and Reporting Plan Machado Lake Trash TMDL	September 5, 2008	December 9, 2008
Machado Lake Nutrient TMDL	Palos Verdes Peninsula Coordinated Monitoring Plan In Compliance with the Machado Lake Nutrient Total Maximum Daily Load	February 1, 2011	December 14, 2010
	Machado Lake Nutrients TMDL Lake Water Quality Management Plan for City of Los Angeles	August 18, 2010	February 14, 2011
	Machado Lake Nutrient TMDL Monitoring and Reporting Program Plan for the City of Carson	March 27, 2012	March 7, 2012
	Machado Lake Multipollutant TMDL Monitoring and Reporting Program for the Unincorporated Areas of Los Angeles County within the Machado Lake Watershed	September 12, 2011	April 25, 2012

TMDL	Comment	Date of Final Plan	Regional Water Board Approval Date
	Monitoring Plans were due from the City of Lomita on April 25, 2011, City of Redondo Beach on March 11, 2010, and City of Torrance on May 16, 2012.	---	---
Machado Lake Pesticides and PCBs TMDL	Monitoring Plan is due on September 20, 2012[1].	---	---
Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters Toxic Pollutants TMDL	Monitoring Plan is due on November 23, 2013.	---	---
Los Angeles River Watershed Management Area			
Los Angeles River Watershed Trash TMDL	Monitoring Plan was not required.	N/A	N/A
Los Angeles River Nitrogen Compounds and Related Effects TMDL	Monitoring Plan was due on March 23, 2005.	March 23, 2005	Has not been approved.
Los Angeles River and Tributaries Metals TMDL	Los Angeles River Metals TMDL Coordinated Monitoring Plan	March 25, 2008	April 11, 2008
Los Angeles River Watershed Bacteria TMDL	Monitoring Plan is due on March 23, 2013.	---	---
Legg Lake Trash TMDL	Legg Lake Trash Monitoring & Reporting Plan: Legg Lake Trash TMDL	September 5, 2008	March 25, 2009
Long Beach City Beaches and Los Angeles River Estuary Bacteria TMDL	USEPA Established TMDL	N/A	N/A

[1] The deadline for Permittees assigned both WLAs and LAs to submit one document to address both WLA and LA monitoring requirements and implementation activities shall be September 20, 2013.

TMDL	Comment	Date of Final Plan	Regional Water Board Approval Date
Los Angeles Area Lakes TMDLs (Lake Calabasas, Echo Park Lake, Legg Lake and Peck Road Park Lake)	USEPA Established TMDL	N/A	N/A
San Gabriel River Watershed Management Area			
San Gabriel River and Impaired Tributaries Metals and Selenium TMDL	USEPA Established TMDL	N/A	N/A
Los Angeles Area Lakes TMDLs (Puddingstone Reservoir)	USEPA Established TMDL	N/A	N/A
Los Cerritos Channel and Alamitos Bay Watershed Management Area			
Los Cerritos Channel Metals TMDL	USEPA Established TMDL	N/A	N/A
Colorado Lagoon OC Pesticides, PCBs, Sediment Toxicity, PAHs, and Metals TMDL	Colorado Lagoon TMDL Monitoring Plan (CLTMP)	June 15, 2012	August 23, 2012
Middle Santa Ana River Watershed Management Area			
Middle Santa Ana River Watershed Bacteria Indicator TMDL	Monitoring Plan was due on November 16, 2007.	---	---

VI. RECEIVING WATER MONITORING

A. IMP Receiving Water Monitoring Requirements

1. All IMP plans must contain the following information for receiving water monitoring:

a. Declaration of whether receiving water monitoring is conducted under an IMP, CIMP or both.

b. If receiving water monitoring is performed under the IMP, the plan must contain the following information:

i. A map (preferably GIS) identifying the proposed receiving water monitoring stations for both dry weather and wet weather monitoring.

ii. An explanation of how and why monitoring at the proposed locations will provide representative measurement of the effects of the Permittee's MS4 discharges on the receiving water.

iii. Identification of applicable TMDLs and TMDL compliance points, based on approved TMDL Monitoring Plans and/or as identified in the Basin Plan for the applicable TMDLs.

iv. A description of how the Permittee is fulfilling its obligations for TMDL receiving water monitoring under this IMP, CIMP or other monitoring plans.

v. A description of how the Permittee is contributing to the monitoring of mass emission stations or a discussion of why monitoring at mass emission stations is not being supported.

B. CIMP Receiving Water Monitoring Requirements

1. The CIMP plan must contain the following information for receiving water monitoring:

a. A list of the participating Permittees.

b. A map (preferably GIS) delineating the geographic boundaries of the monitoring plan including the receiving waters, the MS4 catchment drainages and outfalls, subwatershed boundaries (i.e., HUC 12), political boundaries, land use, and the proposed receiving water monitoring stations for both dry weather and wet weather receiving water monitoring.

c. An explanation of how and why monitoring at the proposed locations will provide representative measurement of the effects of the MS4 discharges on the receiving water.

2. TMDLs

a. A list of applicable TMDLs and TMDL compliance points, based on approved TMDL Monitoring Plans and/or as identified in the Basin Plan for the applicable TMDLs.

b. Identification of the proposed receiving water monitoring stations that fulfill the TMDL Monitoring Plan(s) requirements.

c. Shoreline Monitoring Stations monitored pursuant to a bacteria TMDL. Sampling for bacterial indicators (total coliform, fecal coliform (or E. coli), and enterococcus) at shoreline monitoring locations addressed by a TMDL shall be conducted 5 times per week at sites subject to the reference system criterion for allowable exceedance days, and weekly at sites subject to the antidegradation criterion for allowable exceedance days.

3. Mass Emission Stations

a. Location of mass emission stations,

b. Description of monitoring at mass emission stations or justification of why monitoring at the mass emission stations will be discontinued.

C. Minimum Wet Weather Receiving Water Monitoring Requirements

1. The IMP or CIMP shall incorporate the following minimum requirements for monitoring the receiving water during wet weather conditions:

a. The receiving water shall be monitored a minimum of three times per year for all parameters except aquatic toxicity, which must be monitored at least twice per year, or more frequently if required by applicable TMDL Monitoring Plans.

b. Monitoring shall be performed in the receiving water during wet weather conditions, defined for the purposes of this monitoring program as follows:

i. When the receiving water is the Santa Monica Bay or other ocean or estuarine water body, wet weather occurs during a storm event of greater than or equal to 0.1 inch of precipitation, as measured from at least 50 percent of the Los Angeles County controlled rain gauges within the watershed, or based on an alternative precipitation threshold as provided for in an approved IMP or CIMP.

ii. When the receiving water body is a river, stream or creek, wet weather shall be defined as when the flow within the receiving water is at least 20 percent greater than the base flow or an alternative threshold as provided for in an approved IMP or CIMP, or as defined by effective TMDLs within the watershed.

iii. Monitoring shall occur during wet weather conditions, including targeting the first significant rain event of the storm year following the criteria below, and at least two additional wet weather events within the same wet weather season. Permittees shall target the first storm event of the storm year with a predicted rainfall of at least 0.25 inch at a seventy percent probability of rainfall at least 24 hours prior to the event start time. Permittees shall target subsequent storm events that forecast sufficient rainfall and runoff to meet program objectives and site specific study needs. Sampling events shall be separated by a minimum of three days of dry conditions (less than 0.1 inch of rain each day).

c. Receiving water monitoring shall begin as soon as possible after storm water outfall-based monitoring, in order to be reflective of potential impacts from MS4 discharges.

d. At a minimum, the following parameters shall be monitored unless a surrogate pollutant has been approved by the Executive Officer of the Regional Water Board.

i. Flow

ii. Pollutants assigned a receiving water limitation derived from TMDL WLAs (See Attachments L-R of this Order),

iii. Other pollutants identified on the CWA section 303(d) List for the receiving water or downstream receiving waters,

iv. Total Suspended Solids (TSS) and Suspended-Sediment Concentration (SSC) if the receiving water is listed on the CWA section 303(d) list for sedimentation, siltation or turbidity,[2]

v. Field measurements applicable to inland freshwater bodies only: hardness, pH, dissolved oxygen, temperature, and specific conductivity,

vi. Aquatic Toxicity (twice per year, once during first storm event of the storm year as specified above).

e. Additionally, the screening parameters in Table E-2 shall be monitored in the first year of monitoring during the first significant rain event of the storm year. If a parameter is not detected at the Method Detection Limit (MDL) for its respective test method or the result is below the lowest applicable water quality objective, and is not otherwise identified in subparts d.i.-d.vi. above, it need not be further analyzed. If a parameter is detected exceeding the lowest applicable water quality objective then the parameter shall be analyzed for the remainder of the Order during wet weather at the receiving water monitoring station where it was detected.

D. Minimum Dry Weather Receiving Water Monitoring

1. The IMP and/or CIMP plan shall incorporate the following minimum requirements for monitoring the receiving water during dry weather conditions:

a. The receiving water shall be monitored a minimum of two times per year for all parameters, or more frequently if required by applicable TMDL Monitoring Plans. One of the monitoring events shall be during the month with the historically lowest instream flows, or where instream flow data are not available, during the historically driest month.

b. Monitoring shall be performed in the receiving water during dry weather conditions, defined as follows:

i. When the receiving water is the Santa Monica Bay or other ocean or estuary water body, dry weather occurs on days with less than 0.1 inch of rain and those days not less than three days after a rain event of 0.1 inch or greater within the watershed, as measured from at least 50 percent of Los Angeles County controlled rain gauges within the watershed, or an alternative criterion as provided for in an approved IMP or CIMP.

[2] Gray, John, R., G. Douglas Glysson, Lisa M. Turcios, and Gregory E. Schwarz. 2000. *Comparability of Suspended-Sediment Concentration and Total Suspended Solids Data*. United States Geological Survey. Water Resources Investigations Report 00-4191. August 2000.

ii. When the receiving water body is a river, stream or creek, dry weather shall be defined as when the flow is less than 20 percent greater than the base flow or as defined by effective TMDLs within the watershed, or an alternative criterion as provided for in an approved IMP or CIMP.

c. At a minimum the following parameters shall be monitored during dry weather conditions, unless a surrogate pollutant has been approved by the Executive Officer of the Regional Water Board:

i. Flow

ii. Pollutants assigned receiving water limitations derived from TMDL dry weather WLAs,

iii. Other pollutants identified on the CWA section 303(d) List for the receiving water or downstream receiving waters,

iv. TSS and hardness, when metals are monitored,

v. Field measurements for monitoring of inland freshwater bodies: dissolved oxygen, pH, temperature, and specific conductivity,

vi. Aquatic Toxicity (once per year, during the month with the historically lowest flows).

d. Additionally, the parameters in Table E-2 shall be monitored in the first year of monitoring during the critical dry weather event. If a parameter is not detected at the Method Detection Limit (MDL) for its respective test method or the result is below the lowest applicable water quality objective, and is not otherwise identified in subparts c.i.-c.iii. or c.v.-c.vii. above, it need not be further analyzed. If a parameter is detected exceeding the lowest applicable water quality objective then the parameter shall be analyzed for the remainder of the Order during dry weather at the receiving water monitoring station where it was detected.

Table E-2. Storm Water Monitoring Program's Constituents with Associated Minimum Levels (MLs)[3]

CONSTITUENTS	MLs
CONVENTIONAL POLLUTANTS	**mg/L**
Oil and Grease	5
Total Phenols	0.1
Cyanide	0.005
pH	0 - 14
Temperature	N/A
Dissolved Oxygen	Sensitivity to 5 mg/L
BACTERIA (single sample limits)	**MPN/100ml**
Total coliform (marine waters)	10,000

[3] For priority pollutants, MLs published in Appendix 4 of the Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays and Estuaries of California (SIP) shall be used for all analyses, unless otherwise specified. Method Detection Levels (MDLs) must be lower than or equal to the ML value, unless otherwise approved by the Regional Board.

CONSTITUENTS	MLs
Enterococcus (marine waters)	104
Fecal coliform (marine & fresh waters)	400
E. coli (fresh waters)	235
GENERAL	**mg/L**
Dissolved Phosphorus	0.05
Total Phosphorus	0.05
Turbidity	0.1 NTU
Total Suspended Solids	2
Total Dissolved Solids	2
Volatile Suspended Solids	2
Total Organic Carbon	1
Total Petroleum Hydrocarbon	5
Biochemical Oxygen Demand	2
Chemical Oxygen Demand	20-900
Total Ammonia-Nitrogen	0.1
Total Kjeldahl Nitrogen	0.1
Nitrate-Nitrite	0.1
Alkalinity	2
Specific Conductance	1 umho/cm
Total Hardness	2
MBAS	0.5
Chloride	2
Fluoride	0.1
Methyl tertiary butyl ether (MTBE)	1
Perchlorate	4 µg/L
METALS (Dissolved & Total)	**µg/L**
Aluminum	100
Antimony	0.5
Arsenic	1
Beryllium	0.5
Cadmium	0.25
Chromium (total)	0.5
Chromium (Hexavalent)	5
Copper	0.5
Iron	100
Lead	0.5
Mercury	0.5
Nickel	1
Selenium	1
Silver	0.25
Thallium	1
Zinc	1
SEMIVOLATILE ORGANIC COMPOUNDS	
ACIDS	**µg/L**
2-Chlorophenol	2
4-Chloro-3-methylphenol	1
2,4-Dichlorophenol	1
2,4-Dimethylphenol	2
2,4-Dinitrophenol	5
2-Nitrophenol	10
ACIDS	**µg/L**
4-Nitrophenol	5

CONSTITUENTS	MLs
Pentachlorophenol	2
Phenol	1
2,4,6-Trichlorophenol	10
BASE/NEUTRAL	**µg/L**
Acenaphthene	1
Acenaphthylene	2
Anthracene	2
Benzidine	5
1,2 Benzanthracene	5
Benzo(a)pyrene	2
Benzo(g,h,i)perylene	5
3,4 Benzoflouranthene	10
Benzo(k)flouranthene	2
Bis(2-Chloroethoxy) methane	5
Bis(2-Chloroisopropyl) ether	2
Bis(2-Chloroethyl) ether	1
Bis(2-Ethylhexl) phthalate	5
4-Bromophenyl phenyl ether	5
Butyl benzyl phthalate	10
2-Chloroethyl vinyl ether	1
2-Chloronaphthalene	10
4-Chlorophenyl phenyl ether	5
Chrysene	5
Dibenzo(a,h)anthracene	0.1
1,3-Dichlorobenzene	1
1,4-Dichlorobenzene	1
1,2-Dichlorobenzene	1
3,3-Dichlorobenzidine	5
Diethyl phthalate	2
Dimethyl phthalate	2
di-n-Butyl phthalate	10
2,4-Dinitrotoluene	5
2,6-Dinitrotoluene	5
4,6 Dinitro-2-methylphenol	5
1,2-Diphenylhydrazine	1
di-n-Octyl phthalate	10
Fluoranthene	0.05
Fluorene	0.1
Hexachlorobenzene	1
Hexachlorobutadiene	1
Hexachloro-cyclopentadiene	5
Hexachloroethane	1
Indeno(1,2,3-cd)pyrene	0.05
Isophorone	1
Naphthalene	0.2
Nitrobenzene	1
N-Nitroso-dimethyl amine	5
N-Nitroso-diphenyl amine	1
N-Nitroso-di-n-propyl amine	5
Phenanthrene	0.05
BASE/NEUTRAL	**µg/L**
Pyrene	0.05

CONSTITUENTS	MLs
1,2,4-Trichlorobenzene	1
CHLORINATED PESTICIDES	**µg/L**
Aldrin	0.005
alpha-BHC	0.01
beta-BHC	0.005
delta-BHC	0.005
gamma-BHC (lindane)	0.02
alpha-chlordane	0.1
gamma-chlordane	0.1
4,4'-DDD	0.05
4,4'-DDE	0.05
4,4'-DDT	0.01
Dieldrin	0.01
alpha-Endosulfan	0.02
beta-Endosulfan	0.01
Endosulfan sulfate	0.05
Endrin	0.01
Endrin aldehyde	0.01
Heptachlor	0.01
Heptachlor Epoxide	0.01
Toxaphene	0.5
POLYCHLORINATED BIPHENYLS	**µg/L**
Aroclor-1016	0.5
Aroclor-1221	0.5
Aroclor-1232	0.5
Aroclor-1242	0.5
Aroclor-1248	0.5
Aroclor-1254	0.5
Aroclor-1260	0.5
ORGANOPHOSPHATE PESTICIDES	**µg/L**
Atrazine	2
Chlorpyrifos	0.05
Cyanazine	2
Diazinon	0.01
Malathion	1
Prometryn	2
Simazine	2
HERBICIDES	**µg/L**
2,4-D	10
Glyphosate	5
2,4,5-TP-SILVEX	0.5

VII. OUTFALL BASED MONITORING

A. Storm Drains, Channels and Outfalls Map(s) and/or Database. The IMP and/or CIMP plan(s) shall include a map(s) and/or database of the MS4 to include the following information:

1. Surface water bodies within the Permittee(s) jurisdiction

2. Sub-watershed (HUC 12) boundaries

3. Land use overlay
4. Effective Impervious Area (EIA) overlay (if available)
5. Jurisdictional boundaries
6. The location and length of all open channel and underground pipes 18 inches in diameter or greater (with the exception of catch basin connector pipes)
7. The location of all dry weather diversions
8. The location of all major MS4 outfalls within the Permittee's jurisdictional boundary. Each major outfall shall be assigned an alphanumeric identifier, which must be noted on the map
9. Notation of outfalls with significant non-storm water discharges (to be updated annually)
10. Storm drain outfall catchment areas for each major outfall within the Permittee(s) jurisdiction
11. Each mapped MS4 outfall shall be linked to a database containing descriptive and monitoring data associated with the outfall. The data shall include:
    a. Ownership
    b. Coordinates
    c. Physical description
    d. Photographs of the outfall, where possible, to provide baseline information to track operation and maintenance needs over time
    e. Determination of whether the outfall conveys significant non-storm water discharges
    f. Storm water and non-storm water monitoring data

VIII. STORM WATER OUTFALL BASED MONITORING

A. Storm Water Outfall Based Monitoring

1. Storm water discharges from the MS4 shall be monitored at outfalls and/or alternative access points such as manholes or in channels at the Permittee's jurisdictional boundary.
2. The Permittee shall consider the following criteria when selecting outfalls for storm water discharge monitoring:
    a. The storm water outfall based monitoring program should ensure representative data by monitoring at least one major outfall per subwatershed (HUC 12) drainage area, within the Permittee's jurisdiction, or alternate approaches as approved in an IMP or CIMP.
    b. The drainage(s) to the selected outfall(s) shall be representative of the land uses within the Permittee's jurisdiction.

c. If a Permittee is implementing an IMP, to the extent possible, the selected outfalls shall not receive drainage from another jurisdiction. If this is not possible, and a Permittee is pursuing an individual outfall based IMP program, the Permittee shall conduct "upstream" and "downstream" monitoring as the system enters and exits the Permittee's jurisdiction.

d. The Permittee shall select outfalls with configurations that facilitate accurate flow measurement and in consideration of safety of monitoring personnel.

e. The specific location of sample collection may be within the MS4 upstream of the actual outfall to the receiving water if field safety or accurate flow measurement require it.

B. Minimum Storm Water Outfall Based Monitoring Requirements

1. The IMP and/or CIMP shall incorporate the following minimum requirements for monitoring storm water:

a. Storm water discharges shall be monitored a minimum of three times per year for all parameters except aquatic toxicity.

b. Monitoring shall be performed at the selected outfalls during wet weather conditions, defined for the purposes of this monitoring program as follows:

i. When the receiving water is the Santa Monica Bay or other ocean or estuary water body, wet weather occurs during a storm event equal to or greater than 0.1 inch of precipitation, as determined by the closest Los Angeles County rain gauge to the catchment area draining to the outfall, or based on an alternative precipitation threshold as provided for in an approved IMP or CIMP.

ii. When the receiving water body is a river, stream or creek, wet weather shall be defined as when the flow within the receiving water is at least 20 percent greater than the base flow or an alternative threshold as provided for in an approved IMP or CIMP, or as defined by effective TMDLs within the watershed.

iii. Monitoring of storm water discharges shall occur during wet weather conditions resulting from the first rain event of the year, and at least two additional wet weather events within the same wet weather season. Permittees shall target the first storm event of the storm year with a predicted rainfall of at least 0.25 inch at a seventy percent probability of rainfall at least 24 hours prior to the event start time. Permittees shall target subsequent storm events that forecast sufficient rainfall and runoff to meet program objectives and site specific study needs. Sampling events shall be separated by a minimum of three days of dry conditions (less than 0.1 inch of rain each day).

c. At a minimum, the following parameters shall be monitored unless a surrogate pollutant has been approved by the Executive Officer of the Regional Water Board:

i. Flow

ii. Pollutants assigned a WQBEL derived from TMDL WLAs (See Attachments L-R of this Order),

iii. Other pollutants identified on the CWA section 303(d) List for the receiving water or downstream receiving waters,

iv. Total Suspended Solids (TSS) and Suspended-Sediment Concentration (SSC) if the receiving water is listed on the CWA Section 303(d) list for sedimentation, siltation or turbidity,

v. Field measurements applicable to inland freshwater bodies only: hardness, pH, dissolved oxygen, temperature, and specific conductivity,

vi. Pollutants identified in a TIE conducted at the downstream receiving water monitoring station during the most recent sample event, or where the TIE conducted on the receiving water sample was inconclusive, aquatic toxicity. If the discharge exhibits aquatic toxicity, then a TIE shall be conducted.

d. Other parameters in Table E-2 identified as exceeding the lowest applicable water quality objective in the nearest downstream receiving water monitoring station per Part VI.C.1.e.

C. Sampling Methods

1. Samples shall be collected during the first 24 hours of the storm water discharge or for the entire storm water discharge if it is less than 24 hours.

2. If a Permittee is not participating in a IMP or CIMP, the flow-weighted composite sample for a storm water discharge shall be taken with a continuous sampler, or it shall be taken as a combination of a minimum of 3 sample aliquots, taken in each hour of discharge for the first 24 hours of the discharge or for the entire discharge if the storm event is less than 24 hours, with each aliquot being separated by a minimum of 15 minutes within each hour of discharge, unless the Regional Water Board Executive Officer approves an alternate protocol.

IX. NON-STORM WATER OUTFALL BASED SCREENING AND MONITORING

A. Objectives of the Non-Storm Water Outfall Screening and Monitoring Program

The outfall screening and monitoring process is intended to meet the following objectives.

1. Develop criteria or other means to ensure that all outfalls with significant non-storm water discharges are identified and assessed during the term of this Order.

2. For outfalls determined to have significant non-storm water flow, determine whether flows are the result of illicit connections/illicit discharges (IC/IDs),

authorized or conditionally exempt non-storm water flows, natural flows, or from unknown sources.

3. Refer information related to identified IC/IDs to the IC/ID Elimination Program (Part VI.D.10 of this Order) for appropriate action.
4. Based on existing screening or monitoring data or other institutional knowledge, assess the impact of non-storm water discharges (other than identified IC/IDs) on the receiving water.
5. Prioritize monitoring of outfalls considering the potential threat to the receiving water and applicable TMDL compliance schedules.
6. Conduct monitoring or assess existing monitoring data to determine the impact of non-storm water discharges on the receiving water.
7. Conduct monitoring or other investigations to identify the source of pollutants in non-storm water discharges.
8. Use results of the screening process to evaluate the conditionally exempt non-storm water discharges identified in Parts III.A.2 and III.A.3 of this Order and take appropriate actions pursuant to Part III.A.4.d of this Order for those discharges that have been found to be a source of pollutants. Any future reclassification shall occur per the conditions in Parts III.A.2 or III.A.6 of this Order.
9. Maximize the use of Permittee resources by integrating the screening and monitoring process into existing or planned IMP and/or CIMP efforts.

B. Outfall Screening and Monitoring Plan

1. Concurrent with the development of an IMP or CIMP, or within one (1) year of the effective date of this Order, each Permittee shall submit a non-storm water outfall-based screening and monitoring program plan that documents with written procedures an explanation of how the program is to be implemented. The procedures must be updated as needed to reflect the Permittee's program. The plan may be a separate stand-alone document or may be part of an IMP or CIMP.
2. Each Permittee shall conduct at least one re-assessment of its non-storm water outfall-based screening and monitoring program during the term of this Order to determine whether changes or updates are needed. Where changes are needed, the Permittee shall make the changes in its written program documents, implement these changes in practice, and describe the changes within the next annual report.

C. Identification of Outfalls with Significant with Non-Storm Water Discharge

1. Based on the inventory of MS4 outfalls required under Part VII of this MRP, each Permittee shall identify MS4 outfalls with significant non-storm water discharges. Significant non-storm water discharges may be determined by one or more of the following characteristics:

a. Discharges from major outfalls subject to dry weather TMDLs.

b. Discharges for which existing monitoring data exceeds non-storm water Action Levels identified in Attachment G of this Order.

c. Non-storm water discharges that have caused or have the potential to cause overtopping of downstream diversions.

d. Discharges exceeding a proposed threshold discharge rate as determined by the Permittee.

e. Other characteristics as determined by the Permittee and incorporated within their screening program plan.

D. Inventory of MS4 Outfalls with Non-Storm Water Discharges

1. Each Permittee shall develop and maintain an inventory of MS4 outfalls and identify those with known significant non-storm water discharges and those requiring no further assessment. If the MS4 outfall requires no further assessment, the inventory must include the rationale for the determination of no further action required. This inventory shall be recorded in a database with outfall locations linked to the Storm Drains, Channels and Outfalls map required in Part VII.A of this MRP. GIS is preferred.

2. As a component of the inventory, each Permittee shall record existing data from past outfall screening and monitoring and initiate data collection efforts as warranted. The data shall include the physical attributes of those MS4 outfalls or alternative monitoring locations determined to have significant non-storm water discharges. Attributes to be obtained shall, at a minimum, include:

a. Date and time of last visual observation or inspection

b. Outfall alpha-numeric identifier

c. Description of outfall structure including size (e.g., diameter and shape)

d. Description of receiving water at the point of discharge (e.g., natural, soft-bottom with armored sides, trapezoidal, concrete channel)

e. Latitude/longitude coordinates

f. Nearest street address

g. Parking, access, and safety considerations

h. Photographs of outfall condition

i. Photographs of significant non-storm water discharge (or indicators of discharge) unless safety considerations preclude obtaining photographs

j. Estimation of discharge rate

k. All diversions either upstream or downstream of the outfall

l. Observations regarding discharge characteristics such as turbidity, odor, color, presence of debris, floatables, or characteristics that could aid in pollutant source identification.

4. Each year, the Storm Drains, Channels and Outfalls map and associated outfall database required in Part VII.A of the MRP shall be updated to incorporate the most recent characterization data for outfalls with significant non-storm water discharge.

E. Prioritized Source Identification

1. Outfalls within the inventory shall be prioritized in the following order (a= highest priority, etc.) for source identification activities:

a. Outfalls discharging directly to receiving waters with WQBELs or receiving water limitations in the TMDL provisions for which final compliance deadlines have passed.

b. All major outfalls and other outfalls that discharge to a receiving water subject to a TMDL shall be prioritized according to TMDL compliance schedules.

c. Outfalls for which monitoring data exist and indicate recurring exceedances of one or more of the Action Levels identified in Attachment G of this Order.

d. All other major outfalls identified to have significant non-storm water discharges.

2. Each Permittee shall develop a source identification schedule based on the prioritized list of outfalls exhibiting significant non-storm water discharges. The schedule shall ensure that source investigations are conducted for no less than 25% of the outfalls in the inventory within three years of the effective date of this Order and 100% of the outfalls in the inventory within 5 years of the effective date of this Order.

3. Alternatively, a Permittee may request an alternative prioritization and schedule from the Regional Water Board if it can demonstrate an equivalent level of source investigation and abatement through an approved IMP or CIMP.

F. Identify Source(s) of Significant Non-Storm Water Discharge

1. If the source is determined to be an illicit discharge, each Permittee shall implement procedures to eliminate the discharge consistent with IC/ID requirements and document the actions in the next annual report.

2. If the source is determined to be an NPDES permitted discharge, a discharge subject to a Record of Decision approved by USEPA pursuant to section 121 of CERCLA, a conditionally exempt essential non-storm water discharge, or entirely comprised of natural flows as defined at Part III.A.d of this Order, document the source and report to the Regional Water Board in the next annual report.

3. If the source is either unknown or a conditionally exempt, but non-essential, non-storm water discharge, each Permittee shall conduct monitoring required in Part IX.G of this MRP.

4. If the discharge is comprised of more than one source, the Permittee shall attempt to quantify the relative contribution from the individual or group of similar sources (e.g., irrigation overspray) and classify the contributions as authorized, conditionally exempt essential, natural, illicit discharge, conditionally exempt non-essential, or unknown.

5. If the source of non-storm water discharge is unknown, the Permittee shall describe the efforts undertaken to identify the source. Methods for identifying the source of non-storm water discharge may include inspection and/or surveillance, discharge monitoring and data loggers, video or physical inspection, monitoring for indicator parameters (e.g., surfactants, chlorine, Pyrethroids), or other means.

6. If a source originates within an upstream jurisdiction, the Permittee shall inform in writing both the upstream jurisdiction and the Regional Water Board within 30 days of determination of the presence of the discharge, all available characterization data, contribution determination efforts, and efforts taken to identify its source.

7. MS4 outfalls requiring no further action shall be maintained in the Storm Drains, Channels and Outfalls map and associated database (see Part VII.A. of this MRP).

G. Monitor Non-Storm Water Discharges Exceeding Criteria

1. Within 90 days after completing the source identification or after the Executive Officer of the Regional Water Board approves the IMP or CIMP, whichever is later, each Permittee shall monitor outfalls that have been determined to convey significant discharges comprised of either unknown or conditionally exempt non-storm water discharges, or continuing discharges attributed to illicit discharges. The following parameters shall be monitored:

   a. Flow,

   b. Pollutants assigned a WQBEL or receiving water limitation to implement TMDL Provisions for the respective receiving water, as identified in Attachments L - R of this Order,

   c. Other pollutants identified on the CWA section 303(d) List for the receiving water or downstream receiving waters,

   d. Pollutants identified in a TIE conducted in response to observed aquatic toxicity during dry weather at the nearest downstream receiving water monitoring station during the last sample event or, where the TIE conducted on the receiving water sample was inconclusive, aquatic toxicity. If the discharge exhibits aquatic toxicity, then a TIE shall be conducted.

e. Other parameters in Table E-2 identified as exceeding the lowest applicable water quality objective in the nearest downstream receiving water monitoring station per Part VI.D.1.d.

2. For outfalls subject to a dry weather TMDL, monitoring frequency shall be per the approved TMDL Monitoring Plan or as otherwise specified in the TMDL, or as specified in an IMP or CIMP approved by the Executive Officer of the Regional Water Board.

3. For outfalls not subject to dry weather TMDLs, monitoring frequency shall be four times during the first year following source identification, distributed approximately quarterly, during dry weather conditions or as specified in an IMP or CIMP approved by the Executive Officer of the Regional Water Board.

4. Except as required by an applicable TMDL Monitoring Plan, IMP, or CIMP approved by the Executive Officer of the Regional Water Board, monitoring frequency may be reduced to twice per year, beginning in the second year of monitoring, if pollutant concentrations measured during the first year do not exceed WQBELs, non-storm water Action Levels or water quality standards for other pollutants identified on the CWA section 303(d) List for the receiving water or downstream receiving waters.

5. Following one year of monitoring, the Permittee may submit a written request to the Executive Officer of the Regional Water Board to reduce or eliminate monitoring of specified pollutants, based on an evaluation of the monitoring data.

H. Sampling Methods

1. For the purposes of this monitoring program, non-storm water discharges shall be monitored during days when precipitation is < 0.1 inch and those days not less than 3 days after a rain day unless an alternative criterion is provided for in an approved IMP or CIMP. A rain day is defined as those with >= 0.1 inch of rain.

2. Flow-weighted composite samples shall be taken for a non-storm water discharge using a continuous sampler, or it shall be taken as a combination of a minimum of 3 sample aliquots, taken in each hour during a 24-hour period, unless the Regional Water Board Executive Officer approves an alternate protocol.

X. NEW DEVELOPMENT/RE-DEVELOPMENT EFFECTIVENESS TRACKING

A. Each Permittee shall maintain a database providing the following information for each new development/re-development subject to the requirements of Part VI.D.6 of this Order that is approved by the Permittee on or after the effective date of this Order:

1. Name of the Project and Developer,

2. Project location and map (preferably linked to the GIS storm drain map),

3. Date of Certificate of Occupancy,

4. 85th percentile storm event for the project design (inches per 24 hours),
5. 95th percentile storm event for projects draining to natural water bodies (inches per 24 hours),
6. Other design criteria required to meet hydromodification requirements for drainages to natural water bodies,
7. Project design storm (inches per 24-hours),
8. Project design storm volume (gallons or MGD),
9. Percent of design storm volume to be retained on site,
10. Design volume for water quality mitigation treatment BMPs, if any.
11. If flow through, water quality treatment BMPs are approved, provide the one-year, one-hour storm intensity as depicted on the most recently issued isohyetal map published by the Los Angeles County Hydrologist,
12. Percent of design storm volume to be infiltrated at an off-site mitigation or groundwater replenishment project site,
13. Percent of design storm volume to be retained or treated with biofiltration at an off-site retrofit project,
14. Location and maps (preferably linked to the GIS storm drain map required in Part VII.A of this MRP) of off-site mitigation, groundwater replenishment, or retrofit sites,
15. Documentation of issuance of requirements to the developer.

XI. REGIONAL STUDIES

A. Southern California Stormwater Monitoring Coalition Watershed Monitoring Program

1. The Southern California Stormwater Monitoring Coalition (SMC) Regional Watershed Monitoring Program was initiated in 2008. This program is conducted in collaboration with the Southern California Coastal Water Research Project (SCCWRP), State Water Board's Surface Water Ambient Monitoring Program, three Southern California Regional Water Quality Control Boards (Los Angeles, Santa Ana, and San Diego) and several county storm water agencies (Los Angeles, Ventura, Orange, Riverside, San Bernardino and San Diego). SCCWRP acts as the facilitator to organize the program and completes data analysis and report preparation.
2. The SMC monitoring program seeks to coordinate and leverage existing monitoring efforts to produce regional estimates of condition, improve data comparability and quality assurance, and maximize data availability, while conserving monitoring expenditures. The primary goal of this program is to implement an ongoing, large-scale regional monitoring program for southern California's coastal streams and rivers. The monitoring program addresses three main questions:

a. What is the condition of streams in southern California?

b. What are the stressors that affect stream condition?; and

c. Are conditions getting better or worse?

3. A comprehensive program was designed by the SMC, in which each participating group assesses its local watersheds and then contributes their portion to the overall regional assessment. The program utilizes the following indicators: benthic macroinvertebrate community bioassessment, benthic algal community bioassessment (soft algae and diatoms), riparian wetland evaluation (using California Rapid Assessment Methodology), water chemistry (nutrients and certain pesticides), water toxicity (using *Ceriodaphnia*), and physical habitat. Sampling occurs in 15 coastal southern California watersheds from Ventura to the US-Mexico border, and sites are sampled randomly across three land use types (open space, urban and agriculture). Six sites are sampled per year per watershed, resulting in monitoring of 90 sites per year and 450 sites overall over a five-year period (reaching the statistically desirable target of 30 data points per watershed).

4. To continue to implement the SMC design, each Permittee shall be responsible for supporting the monitoring described at the sites within the watershed management area(s) that overlap with the Permittee's jurisdictional area. These include six random sites annually in the Santa Monica Bay Watershed Management area and at three random sites annually in the Santa Clara River Watershed (the other three sites are funded by the Ventura County MS4 Permittees). Permittees shall continue to contribute monitoring resources to the San Gabriel River and Los Angeles River Regional Watershed Monitoring Programs (overall, both of these programs fund six sites per year to contribute to the SMC Program).

XII. AQUATIC TOXICITY MONITORING METHODS

A. Aquatic Toxicity Monitoring as required in Parts VI (Receiving Water Monitoring), VIII (Storm Water Outfall Based Monitoring), and IX (Non-storm Water Outfall Based Monitoring) of this MRP, shall be conducted according to the procedures described in this Part. When the State Water Board's *Policy for Toxicity Assessment and Control* is fully approved and in effect, the Regional Water Board Executive Officer may direct the Permittee(s) to replace current toxicity program elements with standardized procedures in the policy.

B. The Permittee(s) shall collect and analyze samples taken from receiving water monitoring locations to evaluate the extent and causes of toxicity in receiving waters.

C. Toxicity samples may be flow-weighted composite samples, or grab samples, for wet and dry event sampling.

D. The total sample volume shall be determined both by the specific toxicity test method used and the additional volume necessary for TIE studies. Sufficient sample volume shall be collected to perform both the required toxicity tests and TIE studies.

E. Holding Times. All toxicity tests shall be conducted as soon as possible following sample collection. The 36-hour sample holding time for test initiation shall be targeted. However, no more than 72 hours shall elapse before the conclusion of sample collection and test initiation.

F. Definition of Chronic Toxicity. Chronic toxicity measures a sublethal effect (e.g., reduced growth, reproduction) to experimental test organisms exposed to an effluent or receiving waters compared to that of the control organisms.

G. Chronic Toxicity Monitoring Programs.

1. Freshwater Test Species and Methods.

If samples are collected in receiving waters with salinity <1 ppt, or from outfalls discharging to receiving waters with salinity <1 ppt, then the Permittee(s) shall conduct the following critical life stage chronic toxicity tests on undiluted samples in accordance with species and short-term test methods in *Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms* (EPA/821/R-02/013, 2002; Table IA, 40 CFR Part 136). In no case shall the following test species be substituted with another organism unless written authorization from the Regional Water Board Executive Officer is received.

i. A static renewal toxicity test with the fathead minnow, *Pimephales promelas* (Larval Survival and Growth Test Method 1000.0[4]).

ii. A static renewal toxicity test with the daphnid, *Ceriodaphnia dubia* (Survival and Reproduction Test Method 1002.0[5]).

iii. A static renewal toxicity test with the green alga, *Selenastrum capricornutum* (also named *Raphidocelis subcapitata*) (Growth Test Method 1003.0).

2. Marine and Estuarine Test Species and Methods.

If samples are collected in receiving waters with salinity $\geq$1 ppt, or from outfalls discharging to receiving waters with salinity $\geq$1 ppt, then the Permittee(s) shall conduct the following critical life stage chronic toxicity tests on undiluted samples in accordance with species and short-term test methods in *Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to West Coast Marine and Estuarine Organisms* (EPA/600/R-95/136, 1995). Artificial sea salts shall be used to increase sample salinity. In no case shall the following test species be substituted with

[4] Daily observations for mortality make it possible to calculate acute toxicity for desired exposure periods (e.g., a 7-day acute endpoint).

another organism unless written authorization from the Regional Water Board Executive Officer is received.

a. A static renewal toxicity test with the topsmelt, *Atherinops affinis* (Larval Survival and Growth Test Method 1006.01[5]);

b. A static non-renewal toxicity test with the purple sea urchin, *Strongylocentrotus purpuratus* (Fertilization Test Method 1008.0); and

c. A static non-renewal toxicity test with the giant kelp, *Macrocystis pyrifera* (Germination and Growth Test Method 1009.0).

3. Test Species Sensitivity Screening.

To determine the most sensitive test species, the Permittee(s) shall conduct two wet weather and two dry weather toxicity tests with a vertebrate, an invertebrate, and a plant. After this screening period, subsequent monitoring shall be conducted using the most sensitive test species. Alternatively, if a sensitive test species has already been determined, or if there is prior knowledge of potential toxicant(s) and a test species is sensitive to such toxicant(s), then monitoring shall be conducted using only that test species. Sensitive test species determinations shall also consider the most sensitive test species used for proximal receiving water monitoring. After the screening period, subsequent monitoring shall be conducted using the most sensitive test species. Rescreening shall occur in the fourth year of the permit term.

4. Chronic toxicity test biological endpoint data shall be analyzed using the Test of Significant Toxicity t-test approach specified in *National Pollutant Discharge Elimination System Test of Significant Toxicity Implementation Document* (U.S. Environmental Protection Agency, Office of Wastewater Management, Washington, D.C. EPA 833-R-10-003, 2010). For this monitoring program, the critical chronic instream waste concentration (IWC) is set at 100% receiving water for receiving water samples and 100% effluent for wet- and dry-weather outfall samples. A 100% receiving water/outfall effluent sample and a control shall be tested.

H. Quality Assurance.

1. If the receiving water or outfall effluent test does not meet all test acceptability criteria (TAC) specified in the test methods manuals (*Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms* (EPA/821/R-02/013, 2002) and *Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to West Coast Marine and Estuarine Organisms* (EPA/600/R-95/136, 1995)), then the Permittee(s) must re-sample and re-test at the earliest time possible.

2. Control water, including brine controls, shall be laboratory water prepared and used as specified in the test methods manuals.

3. If organisms are not cultured in-house, then concurrent testing with a reference toxicant shall be conducted. If organisms are cultured in-house, then monthly reference toxicant testing is sufficient. Reference toxicant tests

and effluent toxicity tests shall be conducted using the same test conditions (e.g., same test duration, etc.).

I. Toxicity Identification Evaluation (TIE).

1. A toxicity test sample is immediately subject to TIE procedures to identify the toxic chemical(s), if either the survival or sublethal endpoint demonstrates a Percent Effect value equal to or greater than 50% at the IWC. Percent Effect is defined as the effect value—denoted as the difference between the mean control response and the mean IWC response, divided by the mean control response—multiplied by 100.

2. A TIE shall be performed to identify the causes of toxicity using the same species and test method and, as guidance, U.S. EPA manuals: *Toxicity Identification Evaluation: Characterization of Chronically Toxic Effluents, Phase I* (EPA/600/6-91/005F, 1992); *Methods for Aquatic Toxicity Identification Evaluations, Phase II Toxicity Identification Procedures for Samples Exhibiting Acute and Chronic Toxicity* (EPA/600/R-92/080, 1993); *Methods for Aquatic Toxicity Identification Evaluations, Phase III Toxicity Confirmation Procedures for Samples Exhibiting Acute and Chronic Toxicity* (EPA/600/R-92/081, 1993); and *Marine Toxicity Identification Evaluation (TIE): Phase I Guidance Document* (EPA/600/R-96-054, 1996).

3. The TIE should be conducted on the test species demonstrating the most sensitive toxicity response at a sampling station. A TIE may be conducted on a different test species demonstrating a toxicity response with the caveat that once the toxicant(s) are identified, the most sensitive test species triggering the TIE shall be further tested to verify that the toxicant has been identified and addressed.

4. A TIE Prioritization Metric (see Appendix 5 in SMC Model Monitoring Program) may be utilized to rank sites for TIEs.

J. Toxicity Reduction Evaluation (TRE).

1. When a toxicant or class of toxicants is identified through a TIE conducted at a receiving water monitoring station, Permittees shall analyze for the toxicant(s) during the next scheduled sampling event in the discharge from the outfall(s) upstream of the receiving water location.

2. If the toxicant is present in the discharge from the outfall at levels above the applicable receiving water limitation, a TRE shall be performed for that toxicant.

3. The TRE shall include all reasonable steps to identify the source(s) of toxicity and discuss appropriate BMPs to eliminate the causes of toxicity. No later than 30 days after the source of toxicity and appropriate BMPs are identified, the Permittee(s) shall submit a TRE Corrective Action Plan to the Regional Water Board Executive Officer for approval. At minimum, the plan shall include a discussion of the following:

a. The potential sources of pollutant(s) causing toxicity.

b. A list of municipalities and agencies that may have jurisdiction over sources of pollutant(s) causing toxicity.

c. Recommended BMPs to reduce the pollutant(s) causing toxicity.

d. Proposed post-construction control measures to reduce the pollutant(s) causing toxicity.

e. Follow-up monitoring to demonstrate that the toxicants have been reduced or eliminated.

4. The TRE process shall be coordinated with TMDL development and implementation (i.e., if a TMDL for 4,4'-DDD is being implemented when a TRE for 4,4'-DDD is required, then efforts shall be coordinated to avoid overlap).

K. Chronic Toxicity Reporting

1. Aquatic toxicity monitoring results submitted to the Regional Water Board shall be consistent with the requirements identified in Part XIV.L and M and Part XVIII.A.5 and A.7 of the MRP.

2. The Annual Report in Part XVIII of the MRP shall include:

a. A full laboratory report for each chronic toxicity test prepared according to the appropriate test methods manual chapter on Report Preparation, including:

i. The chronic toxicity test results for the t-test, reported as “Pass” or “Fail”, and the “Percent Effect”.

ii. The dates of sample collection and initiation of each toxicity test.

iii. Test species with biological endpoint values for each concentration tested.

iv. Reference toxicant test results.

v. Water quality measurements for each toxicity test (e.g., pH, dissolved oxygen, temperature, conductivity, hardness, salinity, chlorine, ammonia).

vi. TRE/TIE testing results.

vii. A printout of CETIS (Comprehensive Environmental Toxicity Information System) program results.

b. All results for receiving water or outfall effluent parameters monitored concurrently with the toxicity test.

c. TIEs (Phases I, II, and III) that have been completed or are being conducted, by monitoring station.

d. The development, implementation, and results for each TRE Corrective Action Plan, beginning the year following the identification of each pollutant or pollutant class causing chronic toxicity.

XIII. SPECIAL STUDIES

A. Each Permittee shall be responsible for conducting special studies required in an effective TMDL or an approved TMDL Monitoring Plan applicable to a watershed that transects its political boundary.

XIV. STANDARD MONITORING AND REPORTING PROVISIONS

A. All monitoring and reporting activities shall meet the following requirements.

1. Monitoring and Records [40 CFR section 122.41(j)(1)]

a. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

b. Monitoring and Records [40 CFR section 122.41(j)(2)] [California Water Code § 13383(a)]

i. Permittees 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 Report of Waste Discharge (ROWD) and 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 or USEPA at any time.

c. Monitoring and Records [40 CFR section 122.41(j)(3)]

i. Records of monitoring information shall include:

1. The date, time of sampling or measurements, exact place, weather conditions, and rain fall amount.

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.

6. The results of such analyses.

7. The data sheets showing toxicity test results.

d. Monitoring and Records [40 CFR section 122.41(j)(4)]. All monitoring, sampling, sample preservation, and analyses must be conducted according to test procedures approved under 40 CFR Part 136 for the analysis of pollutants, unless another test procedure is required under 40 CFR subchapter N or O or is otherwise specified in this Order for such pollutants. If a particular Minimum Level (ML) is not attainable in accordance with procedures set forth in 40 CFR Part 136, the lowest

quantifiable concentration of the lowest calibration standard analyzed by a specific analytical procedure may be used instead.

e. Monitoring and Records [40 CFR section 122.41(j)(5)]. The CWA provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this Order shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than $20,000 per day of violation, or by imprisonment of not more than four years, or both.

B. All chemical, bacteriological, and toxicity analyses shall be conducted at a laboratory:

1. Certified for such analyses by an appropriate governmental regulatory agency.

2. Participated in "Intercalibration Studies" for storm water pollutant analysis conducted by the SMC.[5]

3. Which performs laboratory analyses consistent with the storm water monitoring guidelines as specified in, the S*tormwater Monitoring Coalition Laboratory Guidance Document,* 2nd Edition R. Gossettt and K. Schiff (2007), and its revisions.

C. For priority toxic pollutants that are identified in the CTR (40 CFR §131.38), the MLs published in Appendix 4 of the *Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays and Estuaries of California* (SIP) shall be used for all analyses, unless otherwise specified.

D. The Monitoring Report shall specify the analytical method used, the Method Detection Level (MDL) and the ML for each pollutant. For the purpose of reporting compliance with numerical limitations, performance goals, and receiving water limitations, analytical data shall be reported with one of the following methods, as appropriate:

1. An actual numerical value for sample results greater than or equal to the ML.

2. "Not-detected (ND)" for sample results less than the laboratory's MDL with the MDL indicated for the analytical method used.

3. "Detected, but Not Quantified (DNQ)" if results are greater than or equal to the laboratory's MDL but less than the ML. The estimated chemical concentration of the sample shall also be reported. This is the concentration that results from the confirmed detection of the substance by the analytical method below the ML value.

[5] The 'Intercalibration Studies' are conducted periodically by the SMC to establish a consensus based approach for achieving minimal levels of comparability among different testing laboratories for storm water samples to minimize analytical procedure bias. Stormwater Monitoring Coalition Laboratory Document, Technical Report 420 (2004) and subsequent revisions and augmentations.

E. For priority toxic pollutants, if the Permittee can demonstrate that a particular ML is not attainable, in accordance with procedures set forth in 40 CFR Part 136, the lowest quantifiable concentration of the lowest calibration standard analyzed by a specific analytical procedure (assuming that all the method specified sample weights, volumes, and processing steps have been followed) may be used instead of the ML listed in Appendix 4 of the SIP. The Permittee must submit documentation from the laboratory to the Regional Water Board Executive Officer for approval prior to raising the ML for any constituent.

F. Monitoring Reports [40 CFR § 122.41(l)(4)(ii)].

1. If a Permittee monitors any pollutant more frequently than required by this Order using test procedures approved under 40 CFR Part 136, or another method specified in this Order, the results of such monitoring shall be included in the calculation and reporting of the data submitted in the Annual Monitoring Reports.

G. Monitoring Reports [40 CFR § 122.41(l)(4)(iii)]

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

H. If no flow occurred during the reporting period, then the Monitoring Report shall so state.

I. The Regional Water Board or its Executive Officer, consistent with 40 CFR section 122.41, may approve changes to the Monitoring and Reporting Program, after providing the opportunity for public comment, either:

1. By request of a Permittee or by an interested person after submittal of the Monitoring Report. Such request shall be in writing and filed not later than 60 days after the Monitoring Report submittal date, or

2. As deemed necessary by the Regional Water Board Executive Officer, following notice to the Permittees.

J. Permittees must provide a copy of the Standard Operation Procedures (SOPs) for the Monitoring and Reporting Program No. CI 6948 to the Regional Water Board upon request. The SOP will consist of five elements: Title page, Table of Contents, Procedures, Quality Assurance/ Quality Control (QA/ QC), and References. Briefly describe the purpose of the work or process, including any regulatory information or standards that are appropriate to the SOP process, and the scope to indicate what is covered. Denote what sequential procedures should be followed, divided into significant sections; e.g., possible interferences, equipment needed, equipment/instrument maintenance and calibration, personnel qualifications, and safety considerations. Describe QA/ QC activities, and list any cited or significant references.

K. When monitoring cannot be performed to comply with the requirements of this Order due to circumstances beyond a Permittee's control, then within two working days, the following shall be submitted to the Regional Water Board Executive Officer:

1. Statement of situation.
2. Explanation of circumstance(s) with documentation.
3. Statement of corrective action for the future.

L. Results of monitoring from each receiving water or outfall based monitoring station conducted in accordance with the Standard Operating Procedure submitted under Standard Provision 14 of this MRP shall be sent electronically to the Regional Water Board's Storm Water site at MS4stormwaterRB4@waterboards.ca.gov, semi-annually, highlighting exceedances of applicable WQBELs, receiving water limitations, action levels, or aquatic toxicity thresholds for all test results, with corresponding sampling dates per receiving water monitoring station. The sample data transmitted shall be in the most recent update of the Southern California Municipal Storm Water Monitoring Coalition's (SMC) Standardized Data Transfer Formats (SDTFs).

XV. ANNUAL REPORT SUBMITTAL TIMELINES

A. Each Permittee or group of Permittees shall submit by December 15th of each year beginning in 2013, an Annual Report to the Regional Water Board Executive Officer in the form of three compact disks (CD) (or equivalent electronic format).

XVI. ANNUAL REPORTING REQUIREMENT OBJECTIVES

A. The annual reporting process is intended to meet the following objectives.

1. Present summary information that allows the Regional Water Board to assess:
   - **a.** Each Permittee's participation in one or more Watershed Management Programs.
   - **b.** The impact of each Permittee(s) storm water and non-storm water discharges on the receiving water.
   - **c.** Each Permittee's compliance with receiving water limitations, numeric water quality-based effluent limitations, and non-storm water action levels.
   - **d.** The effectiveness of each Permittee(s) control measures in reducing discharges of pollutants from the MS4 to receiving waters.
   - **e.** Whether the quality of MS4 discharges and the health of receiving waters is improving, staying the same, or declining as a result watershed management program efforts, and/or TMDL implementation measures, or other Minimum Control Measures.
   - **f.** Whether changes in water quality can be attributed to pollutant controls imposed on new development, re-development, or retrofit projects.
2. Present detailed data and information in an accessible format to allow the Regional Water Board to verify conclusions presented in a Permittee's summary information.

3. Provide the Permittee(s) a forum to discuss the effectiveness of its past and ongoing control measure efforts and to convey its plans for future control measures.
4. Present data and conclusions in a transparent manner so as to allow review and understanding by the general public.
5. Focus each Permittee's reporting efforts on watershed condition, water quality assessment, and an evaluation of the effectiveness of control measures.

XVII. WATERSHED SUMMARY INFORMATION, ORGANIZATION AND CONTENT

B. Each Permittee shall include the information requested in A.1 through A.3 below in its odd year Annual Report (e.g., Year 1, 3, 5). The requested information shall be provided for each watershed within the Permittee's jurisdiction. Alternatively, Permittees participating in a Watershed Management Program may provide the requested information through the development and submission of a Watershed Management Program plan and any updates thereto.

1. **Watershed Management Area.** Where a Permittee has individually or collaboratively developed a Watershed Management Program Plan (WMPP) as described in Part VI.C of this Order, reference to the Watershed Management Program plan and any revisions thereto may suffice for baseline information regarding the Watershed Management Area.

   a. The following information shall be included for each Watershed Management Area within the Permittee(s) jurisdiction, where not included in a WMPP:

      i. A description of effective TMDLs, applicable WQBELs and receiving water limitations, and implementation and reporting requirements, and compliance dates

      ii. CWA section 303(d) listings of impaired waters not addressed by TMDLs

      iii. Results of regional bioassessment monitoring

      iv. A description of known hydromodifications to receiving waters and a description, including locations, of natural drainage systems

      v. Description of groundwater recharge areas including number and acres

      vi. Maps and/or aerial photographs identifying the location of ESAs, ASBS, natural drainage systems, and groundwater recharge areas

2. **Subwatershed (HUC-12) Description.** The following information shall be included for each Subwatershed (HUC-12) within the Permittee(s) jurisdiction. Where a Permittee has individually or collaboratively developed a WMPP as described in Part VI.C of this Order, reference to the WMPP and any revisions thereto may suffice for baseline information regarding the subwatershed (HUC-12) descriptions, where the required information is

already included in the WMPP. The summary information describing the subwatershed shall include the following information:

a. Description including HUC-12 number, name and a list of all tributaries named in the Basin Plan

b. Land Use map of the HUC-12 subwatershed

c. 85th percentile, 24-hour rainfall isohyetal map for the subwatershed

d. One-year, one-hour storm intensity isohyetal map for the subwatershed

e. MS4 map for the subwatershed, including major MS4 outfalls and all low-flow diversions

3. **Description of the Permittee(s) Drainage Area within the Subwatershed.** Where a Permittee has individually or collaboratively developed a WMPP as described in Part VI.C of this Order, reference to the WMPP and any revisions thereto may suffice for baseline information regarding the Permittee's Drainage Area within the subwatershed (HUC-12), where the required information is already included in the Watershed Management Program. The following information shall be included for each jurisdiction within the Subwatershed (HUC-12):

   a. A subwatershed map depicting the Permittee(s) jurisdictional area and the MS4, including major outfalls (with identification numbers), and low flow diversions (with identifying names or numbers) located, within the Permittee's jurisdiction.

   b. Provide the estimated baseline percent of effective impervious area (EIA) within the Permittee(s) jurisdictional area as existed at the time that this Order became effective.

XVIII. ANNUAL ASSESSMENT AND REPORTING

A. Each Permittee or group of Watershed Permittees shall include the information requested in A.1 through A.7 below in its Annual Report. The requested information shall be provided for each watershed within the Permittee's jurisdiction. Each Permittee shall format its Annual Report to align with the reporting requirements identified in Parts A.1 through A.7 below.

Annual Reports submitted on behalf of a group of Watershed Permittees shall clearly identify all data collected and strategies, control measures, and assessments implemented by each Permittee within its jurisdiction as well as those implemented by multiple Permittees on a watershed scale.

1. **Storm Water Control Measures.** Each Permittee shall make all reasonable efforts to determine, compile, analyze, and summarize the following information.

   a. Estimated cumulative change in percent EIA since the effective date of this Order and, if possible, the estimated change in the storm water runoff volume during the 85th percentile storm event.

b. Summary of New Development/Re-development Projects constructed within the Permittee(s) jurisdictional area during the reporting year.

c. Summary of Retrofit Projects that reduced or disconnected impervious area from the MS4 during the reporting year.

d. Summary of other projects designed to intercept storm water runoff prior to discharge to the MS4 during the reporting year.

e. For the projects summarized above in 1.b through 1.d, estimate the total runoff volume retained on site by the implemented projects.

f. Summary of actions taken in compliance with TMDL implementation plans or approved Watershed Management Programs to implement TMDL provisions in Part VI.E and Attachments L-R of this Order.

g. Summary of riparian buffer/wetland restoration projects completed during the reporting year. For riparian buffers include width, length and vegetation type; for wetland include acres restored, enhanced or created.

h. Summary of other Minimum Control Measures implemented during the reporting year, as the Permittee deems relevant.

i. Status of all multi-year efforts that were not completed in the current year and will therefore continue into the subsequent year(s). Additionally, if any of the requested information cannot be obtained, the Permittee shall provide a discussion of the factor(s) limiting its acquisition and steps that will be taken to improve future data collection efforts.

2. Effectiveness Assessment of Storm Water Control Measures

a. Rainfall summary for the reporting year. Summarize the number of storm events, highest volume event (inches/24 hours), highest number of consecutive days with measureable rainfall, total rainfall during the reporting year compared to average annual rainfall for the subwatershed. Precipitation data may be obtained from Los Angeles County Department of Public Works rain gauge stations available at http://www.ladpw.org/wrd/precip/.

b. Provide a summary table describing rainfall during storm water outfall and wet-weather receiving water monitoring events. The summary description shall include the date, time that the storm commenced and the storm duration in hours, the highest 15-minute recorded storm intensity (converted to inches/hour), the total storm volume (inches), and the time between the storm event sampled and the end of the previous storm event.

c. Where control measures were designed to reduce impervious cover or storm water peak flow and flow duration, provide hydrographs or flow data of pre- and post-control activity for the 85^{th} percentile, 24-hour rain event, if available.

d. For natural drainage systems, develop a reference watershed flow duration curve and compare it to a flow duration curve for the subwatershed under current conditions.

e. Provide an assessment as to whether the quality of storm water discharges as measured at designed outfalls is improving, staying the same or declining. The Permittee may compare water quality data from the reporting year to previous years with similar rainfall patterns, conduct trends analysis, or use other means to develop and support its conclusions (e.g., use of non-storm water action levels or municipal action levels as provided in Attachment G of this Order).

f. Provide an assessment as to whether wet-weather receiving water quality within the jurisdiction of the Permittee is improving, staying the same or declining, when normalized for variations in rainfall patterns. The Permittee may compare water quality data from the reporting year to previous years with similar rainfall patterns, conduct trends analysis, draw from regional bioassessment studies, or use other means to develop and support its conclusions.

g. Status of all multi-year efforts, including TMDL implementation, that were not completed in the current year and will continue into the subsequent year(s). Additionally, if any of the requested information cannot be obtained, the Permittee shall provide a discussion of the factor(s) limiting its acquisition and steps that will be taken to improve future data collection efforts.

3. Non-Storm Water Control Measures

a. Estimate the number of major outfalls within the Permittee's jurisdiction in the subwatershed.

b. Provide the number of outfalls that were screened for significant non-storm water discharges during the reporting year.

c. Provide the cumulative number of outfalls that have been screened for significant non-storm water discharges since the date this Order was adopted through the reporting year.

d. Provide the number of outfalls with confirmed significant non-storm water discharge.

e. Provide the number of outfalls where significant non-storm water discharge was attributed to other NPDES permitted discharges; other authorized non-storm water discharges; or conditionally exempt discharges pursuant to Part III.A of this Order.

f. Provide the number of outfalls where significant non-storm water discharges were abated as a result of the Permittee's actions.

g. Provide the number of outfalls where non-storm water discharges was monitored.

h. Provide the status of all multi-year efforts, including TMDL implementation, that were not completed in the current year and will continue into the subsequent year(s). Additionally, if any of the requested information cannot be obtained, the Permittee shall provide a discussion of the factor(s) limiting its acquisition and steps that will be taken to improve future data collection efforts.

4. Effectiveness Assessment of Non-Storm Water Control Measures

a. Provide an assessment as to whether receiving water quality within the jurisdiction of the Permittee is impaired, improving, staying the same or declining during dry-weather conditions. Each Permittee may compare water quality data from the reporting year to previous years with similar dry-weather flows, conduct trends analysis, draw from regional bioassessment studies, or use other means to develop and support its conclusions.

b. Provide an assessment of the effectiveness of the Permittee(s) control measures in effectively prohibiting non-storm water discharges through the MS4 to the receiving water.

c. Provide the status of all multi-year efforts that were not completed in the current year and will continue into the subsequent year(s).

5. Integrated Monitoring Compliance Report

a. Provide an Integrated Monitoring Report that summarizes all identified exceedances of (1) outfall-based storm water monitoring data, (2) wet weather receiving water monitoring data, (3) dry weather receiving water data, and (4) non-storm water outfall monitoring data against all applicable receiving water limitations, water quality-based effluent limitations, non-storm water action levels, and aquatic toxicity thresholds as defined in Sections XII.F and G of this MRP. All sample results that exceeded one or more applicable thresholds shall be readily identified.

b. If aquatic toxicity was confirmed and a TIE was conducted, identify the toxic chemicals as determined by the TIE. Include all relevant data to allow the Regional Water Board to review the adequacy and findings of the TIE. This shall include, but not be limited to, the sample(s) date, sample(s) start and end time, sample type(s) (flow-weighted composite, grab, or field measurement), sample location(s) as depicted on the map, the parameters, the analytical results, and the applicable limitation.

c. Provide a description of efforts that were taken to mitigate and/or eliminate all non-storm water discharges that exceeded one or more applicable water quality based effluent limitations, non-storm water action levels, or caused or contributed to Aquatic Toxicity.

d. Provide a description of efforts that were taken to address storm water discharges that exceeded one or more applicable water quality based effluent limitations, or caused or contributed to Aquatic Toxicity.

e. Where Receiving Water Limitations were exceeded, provide a description of efforts that were taken to determine whether discharges from the MS4 caused or contributed to the exceedances and all efforts that were taken to control the discharge of pollutants from the MS4 to those receiving waters in response to the exceedances.

6. Adaptive Management Strategies

a. Identify the most effective control measures and describe why the measures were effective and how other control measures will be optimized based on past experiences.

b. Identify the least effective control measures and describe why the measures were deemed ineffective and how the control measures will be modified or terminated.

c. Identify significant changes to control measures during the prior year and the rationale for the changes.

d. Describe all significant changes to control measures anticipated to be made in the next year and the rationale for the changes. Those changes requiring approval of the Regional Water Board or its Executive Officer shall be clearly identified at the beginning of the Annual Report.

e. Include a detailed description of control measures to be applied to New Development or Re-development projects disturbing more than 50 acres.

f. Provide the status of all multi-year efforts that were not completed in the current year and will continue into the subsequent year(s).

7. Supporting Data and Information

a. All monitoring data and associated meta data used to prepare the Annual Report shall be summarized in an Excel spreadsheet and sorted by watershed, subwatershed and monitoring station/outfall identifier linked to the subwatershed map. The data summary must include the date, sample type (flow-weighted composite, grab, field measurement), sample start and stop times, parameter, analytical method, value, and units. The date field must be linked to a database summarizing the weather data for the sampling date including 24-hour rainfall, rainfall intensity, and days since the previous rain event.

b. Optional. The Permittee may at its option, provide an additional detailed summary table describing control measures that are not otherwise described in the reporting requirements.

XIX. TMDL REPORTING

Permittees shall report on the progress of TMDL implementation per the schedules identified below in Sections A – G.

A. Reporting Requirements for Santa Clara River WMA TMDLs

Deliverable	Description	Due Date(s)
Santa Clara River Nitrogen Compounds TMDL		
Progress Reports	Annual progress reports on the Implementation Plan must be submitted to the Regional Water Board.	December 15, 2013, and annually thereafter
Upper Santa Clara River Chloride TMDL		
Monitoring Results	Permittees shall conduct chloride, TDS, and sulfate monitoring to ensure that water quality objectives are being met.	December 15, 2013, and annually thereafter
Lake Elizabeth, Munz Lake, and Lake Hughes Trash		
Progress Reports	Report compliance with the installation of full capture systems.	December 15, 2013, and annually thereafter
Santa Clara River Estuary and Reaches 3, 5, 6, and 7 Indicator Bacteria TMDL		
Receiving Water Monitoring Plan and Outfall Monitoring Plan	Permittees must submit a comprehensive in-stream bacteria water quality monitoring plan for the Santa Clara River Watershed. The monitoring plan should include all applicable bacteria water quality objectives and the sampling frequency must be adequate to assess compliance with the geometric mean objectives. At a minimum, at least one sampling station shall be located in each impaired reach. The outfall monitoring plan shall propose an adequate number of representative outfalls to be sampled, a sampling frequency, and protocol for enhanced outfall monitoring as a result of an in-stream exceedance. The Monitoring Plans must be approved by the Regional Water Board Executive Officer before the monitoring data can be considered during the implementation of the TMDL. Once the monitoring plan is approved by the Executive Officer, monitoring shall commence within 30 days.	March 21, 2013, or Submit an IMP or CIMP plan concurrently with the Permittee's draft WMP.
Draft Implementation Plan	Permittees must submit a draft Implementation Plan outlining how each intends to cooperatively or individually achieve compliance with the water quality-based effluent limitations and the receiving water limitations. The Implementation Plan shall include implementation methods, an implementation schedule and proposed milestones.	March 21, 2015
Final Implementation Plan	Permittees must submit a final Implementation Plan.	Six months after receipt of Regional Water Board comments on the draft Implementation Plan.
Board Briefing	Permittees shall provide a verbal update to the Regional Water Board on the progress of TMDL implementation.	March 21, 2017

B. Reporting Requirements for Santa Monica Bay WMA TMDLs

Deliverable	Description	Due Date(s)
Santa Monica Bay Beaches Bacteria TMDL		
Monitoring Results	Monthly data summary reports shall be submitted to the Regional Water Board by the last day of each month for data collected during the previous month. Two agencies will submit the monthly reports on behalf of all Permittees: City of Los Angeles, Department of Public Works, Bureau of Sanitation, Environmental Monitoring Division (on behalf of Jurisdictional Groups 1 through 6, 8, and 9); and Los Angeles County Sanitation Districts (on behalf of Jurisdictional Group 7).	Monthly on the last day of the month.
Santa Monica Bay Nearshore and Offshore Debris TMDL		
Trash Monitoring and Reporting Plan (TMRP)	Permittees shall develop a Trash Monitoring and Reporting Plan (TMRP) for Regional Water Board Executive Officer approval that describes the methodologies that will be used to assess and monitor trash in their responsible areas within the Santa Monica Bay WMA or along Santa Monica Bay. The TMRP shall include a plan to establish a site specific trash baseline water quality-based effluent limitation if Permittees elect to not use the default baseline effluent limitation. Requirements for the TMRP shall include, but are not limited to, assessment and quantification of trash collected from source areas in the Santa Monica Bay WMA, and shoreline of the Santa Monica Bay. The monitoring plan shall provide details on the frequency, location, and reporting format. Permittees shall propose a metric (e.g., weight, volume, pieces of trash) to measure the amount of trash discharged from their jurisdictional areas.	Submit an IMP or CIMP plan concurrently with the Permittee's draft WMP, or If a WMP or IMP or CIMP will not be developed then submitted the TMRP 12 months after the effective date of this Order.
Implement TMRP	Implement TMRP	If TMRP is submitted by September 20, 2012, then implement the TMRP 6 months from receipt of letter of approval from Regional Water Board Executive Officer, or the date a plan is established by the Executive Officer; or If an IMP or CIMP is submitted, then monitoring shall commence within 30 days after approval of the IMP or CIMP plan by the Executive Officer.
Plastic Pellets Monitoring and Reporting Plan	Permittees identified as responsible jurisdictions and agencies for point sources of trash in the Santa Monica Bay Debris TMDL and in the existing Malibu Creek and Ballona Creek Trash TMDLs, including the Los Angeles County Flood Control District, shall either prepare a Plastic	September 20, 2013, or Submit an IMP or CIMP plan concurrently with the Permittee's draft WMP.

	Pellet Monitoring and Reporting Plan (PMRP) or demonstrate that a PMRP is not required. The PMRP shall include protocols for a timely and appropriate response to possible plastic pellets spills within a Permittees' jurisdictional area, and a comprehensive plan to ensure that plastic pellets are contained.	
Implement PMRP	Implement PMRP	March 20, 2016
Submit results of implementing TMRP and PMRP	Submit results of implementing TMRP and PMRP, recommend trash baseline water quality-based effluent limitations, and propose prioritization of Full Capture System installation or implementation of other measures to attain the required trash and plastic pellet reduction.	December 15, 2013, and annually thereafter
Santa Monica Bay TMDL for DDTs and PCBs (*USEPA established*)		
Monitoring and Reporting Plan	Permittees shall develop a Monitoring and Reporting Plan for Regional Water Board Executive Officer approval that describes the methodologies that will be used to monitor and assess sediment for DDT and PCBs. The monitoring design and assessment framework should be designed to provide credible estimates of the total mass loadings to the Santa Monica Bay. Monitoring should be conducted on a coordinated watershed-wide basis using sufficiently sensitive analytical methods for DDT and PCBs. Monitoring sediments in catch basins designed for pollutant prevention may be a way for Permittees to quantify load reductions to the Santa Monica Bay.	Submit an IMP or CIMP plan concurrently with the Permittee's draft WMP, or If a WMP or IMP or CIMP will not be developed then submitted the Monitoring and Reporting Plan 12 months after the effective date of this Order.
Malibu Creek and Lagoon Bacteria TMDL		
Monitoring Results	Monthly data summary reports shall be submitted to the Regional Water Board by the last day of each month for data collected during the previous month.	Monthly on the last day of the month.
Malibu Creek Watershed Trash TMDL		
Submit results of TMRP	Submit results of Trash Monitoring and Reporting Plan (TMRP), recommend trash baseline water quality-based effluent limitations, and propose prioritization of Full Capture System installation or implementation of other measures to attain the required trash.	December 15, 2013, and annually thereafter
Malibu Creek Watershed Nutrients TMDL (*USEPA established*)		
Monitoring and Reporting Plan	Permittees shall develop a Monitoring and Reporting Plan for Regional Water Board Executive Officer approval that demonstrates compliance with the water quality-based effluent limitations for total nitrogen and total phosphorus.	Submit an IMP or CIMP plan concurrently with the Permittee's draft WMP, or If a WMP or IMP or CIMP will not be developed then submitted the Monitoring and Reporting Plan 12 months after the effective date of this Order.

Ballona Creek Trash TMDL		
Annual Progress Reports	Report compliance with the required percent reduction of trash discharged to Ballona Creek.	December 15, 2013, and annually thereafter.
Ballona Creek Estuary Toxic Pollutants TMDL		
Annual Monitoring Report	Permittees shall submit annual monitoring reports, which include compliance summary tables, to the Regional Water Board.	December 15, 2013, and annually thereafter.
Ballona Creek, Ballona Estuary and Sepulveda Channel Bacteria TMDL		
Monitoring Results	Monthly data summary reports shall be submitted to the Regional Water Board by the last day of each month for data collected during the previous month.	Monthly on the last day of the month.
Ballona Creek Metals TMDL		
Annual Monitoring Report	Permittees shall submit annual monitoring reports, which include compliance summary tables, to the Regional Water Board.	December 15, 2013, and annually thereafter.
Ballona Creek Wetlands TMDL for Sediment and Invasive Exotic Vegetation (*USEPA established*)		
Monitoring and Reporting Plan	Permittees shall develop a Sediment Monitoring and Reporting Plan for Regional Water Board Executive Officer approval to quantify the annual loading of sediment from the Ballona Creek Watershed and the impact of the sediment loading into the Ballona Creek Wetlands.	Submit an IMP or CIMP plan concurrently with the Permittee's draft WMP, or If a WMP or IMP or CIMP will not be developed then submitted the Monitoring and Reporting Plan 12 months after the effective date of this Order.
Marina del Rey Harbor Mothers' Beach and Back Basins Bacteria TMDL		
Monitoring Results	Monthly data summary reports shall be submitted to the Regional Water Board by the last day of each month for data collected during the previous month.	Monthly on the last day of the month.
Marina del Rey Harbor Toxic Pollutants TMDL		
Annual Monitoring Report	Permittees shall submit annual monitoring reports, which include compliance summary tables, to the Regional Water Board.	December 15, 2013, and annually thereafter.

C. Reporting Requirements for Dominguez Channel and Greater Harbors Waters WMA TMDLs

Deliverable	Description	Due Date(s)
Los Angeles Harbor Bacteria TMDL		
Monitoring Results	Monthly data summary reports shall be submitted to the Regional Water Board by the last day of each month for data collected during the previous month.	Monthly on the last day of the month.
Machado Lake Trash TMDL		
Progress Reports	Report compliance with the required percent reduction of trash discharged to Machado Lake.	December 15, 2013, and annually thereafter.
Machado Lake Nutrient TMDL		
Annual Monitoring Report	The Cities of Palos Verdes Estates, Ranch Palos Verdes, Rolling Hills and Rolling Hills Estates shall submit annual monitoring reports that demonstrate compliance with the concentration-based water quality-based effluent limitations.	December 15, 2013, and annually thereafter.
Annual Monitoring Report	The City of Los Angeles shall submit annual monitoring reports that demonstrate compliance with the Lake Water Quality Management Plan and reduces the external nutrient loading to attain the receiving water limitations for Machado Lake.	December 15, 2013, and annually thereafter.
Annual Monitoring Report	The City of Carson shall submit annual monitoring reports that demonstrate compliance with the concentration-based water quality-based effluent limitations.	December 15, 2013, and annually thereafter.
Annual Monitoring Report	The County of Los Angeles shall submit annual monitoring reports that demonstrate compliance with the mass-based water quality-based effluent limitations.	December 15, 2013, and annually thereafter.
Annual Monitoring Report	The City of Torrance shall submit annual monitoring reports that demonstrate compliance with the mass-based water quality-based effluent limitations.	December 15, 2013, and annually thereafter.
Annual Monitoring Report	The Cities of Lomita and Redondo Beach shall submit annual monitoring reports that demonstrate compliance with the concentration-based water quality-based effluent limitations.	December 15, 2013, and annually thereafter.
Machado Lake Pesticides and PCBs TMDL		
Monitoring and Reporting Plan and Quality Assurance Project Plan	Permittees shall develop a Monitoring and Reporting Plan (MRP) and Quality Assurance Project Plan (QAPP) for Regional Water Board Executive Officer approval. The MRP shall demonstrate compliance and non-compliance with the water quality-based effluent limitations as part of reports submitted to the Regional Water Board. The QAPP shall include protocols for sample collection, standard analytical procedures, and	The deadline for Permittees assigned both WLAs and LAs to submit one document to address both the WLA and LA monitoring requirements and implementation activities shall be September 20, 2013.

	laboratory certification. All samples shall be collected in accordance with applicable SWAMP protocols.	Submit an IMP or CIMP plan concurrently with the Permittee's draft WMP, or If a WMP or IMP or CIMP will not be developed then submitted the work plan 12 months after the effective date of this Order.
Begin Phase 1 Monitoring	Begin Phase 1 Monitoring as outlined in the approved MRP and QAPP.	30 days from date of Executive Officer approval of MRP and QAPP
Phase 1 Monitoring	Conduct Phase 1 Monitoring for 2 years.	2 year monitoring period
Draft Implementation Plan	Based on the results of Phase 1 Monitoring, Permittees shall submit an Implementation Plan to attain water quality-based effluent limitations or document that water quality-based effluent limitations are attained.	6 months from completion of Phase 1 Monitoring
Final Implementation Plan	Permittees shall submit Final Implementation Plan.	1 year from completion of Phase 1 Monitoring
Implementation	Permittees shall begin implementation actions to attain water quality-based effluent limitation, as necessary.	30 days from date of Implementation Plan approval
Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters Toxic Pollutants TMDL		
Monitoring and Reporting Plan and Quality Assurance Project Plan	Permittees shall develop Monitoring and Reporting Plans (MRPs) and Quality Assurance Project Plans (QAPPs) for Regional Water Board Executive Officer approval in accordance with the TMDL. The MRPs shall include a requirement that the responsible parties report compliance and non-compliance with water quality-based effluent limitations as part of annual reports submitted to the Regional Water Board. The QAPPs shall include protocols for sample collection, standard analytical procedures, and laboratory certification. All samples shall be collected in accordance with applicable SWAMP protocols.	November 23, 2013, or Submit an IMP or CIMP plan concurrently with the Permittee's draft WMP.
Monitoring Plan	Permittees shall implement monitoring as outlined in the approved MRP and QAPP.	30 days after MRP and QAPP is approved by Regional Water Board Executive Officer.
Annual Monitoring Reports	Permittees shall submit annual monitoring reports to the Regional Water Board.	December 15, 2013, and annually thereafter.
Implementation Plan and Contaminated Sediment Management Plan (CSMP)	Permittees in the Dominguez Channel and Greater Harbors Waters Watershed Management Area shall develop and submit an Implementation Plan and Contaminated Sediment Management Plan (CSMP). The CSMP shall include concrete milestones with numeric estimates of load reductions or removal, including milestones for remediating hot spots, including but not limited to Dominguez Channel Estuary, Consolidated Slip and Fish Harbor, for Regional Water Board Executive Officer approval.	Submit an IMP or CIMP plan concurrently with the Permittee's draft WMP, or If a WMP or IMP or CIMP will not be developed then submitted the Implementation Plan and CSMP 12 months after the effective date of this Order.
Report of Implementation	Permittees in the Los Angeles River and San Gabriel River Watersheds shall submit a Report of Implementation to the Regional Water Board.	December 15, 2013, and annually thereafter
Implementation Reports	Permittees shall submit annual implementation reports to the Regional	December 15, 2014, and annually thereafter

	Water Board. Report on implementation progress and demonstrate progress toward meeting the water quality-based effluent limitations.	
Updated Implementation Plan and CSMP	Permittees in the Dominguez Channel and Greater Harbors Waters Watershed Management Area shall submit an updated Implementation Plan and Contaminated Sediment Management Plan (CSMP).	March 23, 2017

D. Reporting Requirements for the Los Angeles River WMA TMDLs

Deliverable	Description	Due Date(s)
Los Angeles River Watershed Trash TMDL		
Reporting	Report compliance with the installation of full capture systems.	December 15, 2013, and annually thereafter.
Los Angeles River Nitrogen Compounds and Related Effects TMDL		
Reporting	Annual reporting of monitoring results to the Regional Water Board.	December 15, 2013, and annually thereafter.
Los Angeles River and Tributaries Metals TMDL		
Annual Monitoring Report	Permittees shall submit annual monitoring reports as detailed in the approved coordinated monitoring plan to the Regional Water Board.	December 15, 2013, and annually thereafter.
Los Angeles River Watershed Bacteria TMDL		
Bacteria Coordinated Monitoring Plan	Permittees shall submit a Bacteria Coordinated Monitoring Plan (CMP), which shall be submitted for Regional Water Board Executive Officer approval. The CMP shall detail: the number and location of sites, including at least one monitoring station per each river segment, reach and tributary addressed under this TMDL; measurements and sample collection methods; and monitoring frequencies. Permittees may also include in the CMP, for Executive Officer consideration, other meteorological stations which may be more representative of the existing hydrology and climate. Each segment, reach, and tributary addressed under this TMDL shall be monitored at least monthly until the subject segment, reach or tributary is at the end of the execution part of its first implementation phase (i.e. 7 years after beginning the segment or tributary-specific phase), to determine compliance with the interim water quality based effluent limitations. Each segment, reach and tributary addressed under this TMDL shall be monitored at least weekly to determine compliance with the instream targets after the first implementation phase. For parties pursuing a Load Reduction Strategy (LRS), intensive outfall monitoring will be conducted before and after implementation of the LRS. Pre-LRS monitoring will be used to estimate the *E. coli* loading from MS4 outfalls to the segment or tributary, and identify the outfalls and types of implementation actions that are expected to be necessary to attain the water quality based limits. Post-LRS monitoring will be used to evaluate compliance with the interim water quality based limits and to plan for additional implementation actions to meet the final water quality based limits, in a second implementation phase, if necessary.	March 23, 2013, or Submit an IMP or CIMP plan concurrently with the Permittee's draft WMP.

	When applicable, outfall monitoring shall including *E. coli* by USEPA- approved methods and flow rate at *all* MS4 outfalls ("snapshots") that are discharging to a segment or tributary or across jurisdictional boundaries during a given monitoring event. For each LRS, at least six (6) snapshots shall be conducted for pre-LRS monitoring, and at least three (3) snapshots shall be conducted for post- LRS monitoring. For MS4s that choose to follow a non-LRS implementation approach, but choose to demonstrate compliance with Equivalent Conditions, at least six (6) snapshots shall be conducted.	
Implement CMP	Permittees shall begin implementation actions to attain water quality-based effluent limitation, as necessary.	30 days after approval of the CMP
Annual Monitoring Report	Annual reporting of monitoring results to the Regional Water Board.	December 15, 2013, and annually thereafter.
Implementation Plan	Permittees shall submit an Implementation Plan for wet weather with interim milestones for approval of the Regional Water Board Executive Officer.	March 23, 2022
Legg Lake Trash TMDL		
TMRP Reports MFAC	Report compliance with the approved MFAC program.	December 15, 2013, and annually thereafter
Long Beach City Beaches and Los Angeles River Estuary Bacteria TMDL		
Compliance Monitoring	To evaluate compliance with numeric targets, monitoring shall take place at existing monitoring sites as well as any new monitoring locations in the ambient water. For beach monitoring locations, daily or systematic weekly sampling in the wave wash at all major drains and creeks, existing monitoring stations at beaches without storm drains, and freshwater outlets is recommended to evaluate compliance. At all beach locations, samples should be taken at ankle depth and on an incoming wave, consistent with section 7961(b) of title 17 of the California Code of Regulations. At locations where there is a freshwater outlet, during wet weather, samples should be taken as close as possible to the wave wash, and no further away than 10 meters down current of the storm drain or outlet. A robust monitoring program shall be developed for the LAR Estuary. Available data includes bi-weekly monitoring from May through September of 2009, and 2010. Monitoring shall be expanded to include year round monitoring requirements, and at least three monitoring locations within the Estuary. We understand that adequate data to establish a reference estuary approach is currently not available. If in the future, adequate data from reference estuary studies become available, it may be appropriate to consider a reference estuary approach to evaluate compliance with these TMDLs.	Submit an IMP or CIMP plan concurrently with the Permittee's draft WMP, or If a WMP or IMP or CIMP will not be developed then submitted the Monitoring Plan 12 months after the effective date of this Order.

Annual Monitoring Report	Annual reporting of monitoring results to the Regional Water Board.	December 15, 2013, and annually thereafter.
Los Angeles Area Lakes TMDLs		
Lake Calabasas Nutrient TMDL		
Compliance Monitoring	At a minimum, compliance monitoring should measure the following in-lake water quality parameters: ammonia, TKN or organic nitrogen, nitrate plus nitrite, orthophosphate, total phosphorus, total suspended solids, total dissolved solids and chlorophyll a. Measurements of the temperature, DO, pH and electrical conductivity should also be taken throughout the water column with a water quality probe along with Secchi depth measurement. All parameters must meet target levels at half the Secchi depth. DO and pH must meet target levels from the surface of the water to 0.3 meters above the lake bottom. Additionally, in order to accurately calculate compliance with water quality based limits to the lake expressed in yearly loads, monitoring should include flow estimation or monitoring as well as the water quality concentration measurements.	At a minimum twice during summer months and once during winter.
Supplemental Water Monitoring	At Lake Calabasas, water quality based limits are assigned to supplemental water additions. This source should be monitoring for at minimum; ammonia, TKN or organic nitrogen, nitrate plus nitrite, orthophosphate, total phosphorus, total suspended solids and total dissolved solids.	Once a year during the summer months (critical conditions).
Stormwater Monitoring	Stormwater sources should be measured near the point where they enter the lakes for at minimum: ammonia, TKN or organic nitrogen, nitrate plus nitrite, orthophosphate, total phosphorus, total suspended solids and total dissolved solids.	Twice a year.
Reporting	Annual reporting of monitoring results to the Regional Water Board.	December 15, 2013, and annually thereafter.
Echo Park Lake Nutrient TMDL		
Compliance Monitoring	At a minimum, compliance monitoring should measure the following in-lake water quality parameters: ammonia, TKN or organic nitrogen, nitrate plus nitrite, orthophosphate, total phosphorus, total suspended solids, total dissolved solids and chlorophyll a. Measurements of the temperature, dissolved oxygen, pH and electrical conductivity should also be taken throughout the water column with a water quality probe along with Secchi depth measurement. All parameters must meet target levels at half the Secchi depth. DO and pH must meet target levels from the surface of the water to 0.3 meters above the lake bottom. Additionally, in order to accurately calculate compliance with water quality based limits to the lake expressed in yearly loads, monitoring should include flow estimation or monitoring as well as the water quality concentration measurements.	At a minimum twice during summer months and once during winter.
Stormwater Monitoring	Stormwater sources should be measured near the point where they enter the lakes for at minimum: ammonia, TKN or organic nitrogen, nitrate plus nitrite, orthophosphate, total phosphorus, total suspended solids and total dissolved solids.	Twice a year.
Reporting	Annual reporting of monitoring results to the Regional Water Board.	December 15, 2013, and annually

		thereafter.
Echo Park Lake PCBs and Organochlorine Pesticide TMDLs		
Compliance Monitoring	At a minimum, compliance monitoring should measure the following in-lake water quality parameters: total suspended sediments, total PCBs, total chlordane, and dieldrin; as well as the following in-lake sediment parameters: total organic carbon, total PCBs, total chlordane, and dieldrin. Environmentally relevant detection limits should be used (i.e., detection limits lower than applicable target), if available at a commercial laboratory. Measurements of the temperature, dissolved oxygen, pH and electrical conductivity should also be taken throughout the water column with a water quality probe along with Secchi depth measurement.	December 15, 2013, and annually thereafter.
Fish Tissue Monitoring	Monitoring of fish tissue. For the OC pesticides and PCBs TMDLs, a demonstration that fish tissue targets have been met in any given year must at minimum include a composite sample of skin off fillets from at least five largemouth bass each measuring at least 350mm in length.	At least every three years.
Stormwater Monitoring	Stormwater sources should be measured near the point where they enter the lakes. Sampling should be designed to collect sufficient volumes of suspended solids to allow for the analysis of at minimum: total organic carbon, total suspended solids, total PCBs, total chlordane, and dieldrin. Measurements of the temperature, dissolved oxygen, pH and electrical conductivity should also be taken.	Once a year during a wet weather event.
Reporting	Annual reporting of monitoring results to the Regional Water Board.	December 15, 2013, and annually thereafter.
Echo Park Lake Trash TMDL		
Compliance Monitoring	Responsible jurisdictions should monitor the trash quantity deposited in the vicinity of Echo Park Lake as well as on the waterbody to comply with the TMDL target and to understand the effectiveness of various implementation efforts. The Rapid Trash Assessment Method is recommended.	Quarterly.
Reporting	Annual reporting of monitoring results to the Regional Water Board.	December 15, 2013, and annually thereafter.
Legg Lake System Nutrient TMDL		
Compliance Monitoring	At a minimum, compliance monitoring should measure the following in-lake water quality parameters: ammonia, TKN or organic nitrogen, nitrate plus nitrite, orthophosphate, total phosphorus, total suspended solids, total dissolved solids and chlorophyll *a*. Measurements of the temperature, dissolved oxygen, pH and electrical conductivity should also be taken throughout the water column with a water quality probe along with Secchi depth measurement. All parameters must meet target levels at half the Secchi depth. DO and pH must meet target levels from the surface of the water to 0.3 meters above the lake bottom. Additionally, in order to accurately calculate compliance with water quality based limits to the lake expressed in yearly loads, monitoring should include flow estimation or monitoring as well as the water quality concentration measurements.	At a minimum twice during summer months and once during winter.

Stormwater Monitoring	Stormwater sources should be measured near the point where they enter the lakes for at minimum: ammonia, TKN or organic nitrogen, nitrate plus nitrite, orthophosphate, total phosphorus, total suspended solids and total dissolved solids.	Twice a year.
Reporting	Annual reporting of monitoring results to the Regional Water Board.	December 15, 2013, and annually thereafter.
Peck Road Park Lake Nutrient TMDL		
Compliance Monitoring	At a minimum, compliance monitoring should measure the following in-lake water quality parameters: ammonia, TKN or organic nitrogen, nitrate plus nitrite, orthophosphate, total phosphorus, total suspended solids, total dissolved solids and chlorophyll a. Measurements of the temperature, DO, pH and electrical conductivity should also be taken throughout the water column with a water quality probe along with Secchi depth measurement. All parameters must meet target levels at half the Secchi depth. Deep lakes, such as Peck Road Park Lake, must meet the DO and pH targets in the water column from the surface to 0.3 meters above the bottom of the lake when the lake is not stratified. However, when stratification occurs (i.e., a thermocline is present) then the DO and pH targets must be met in the epilimnion, the portion of the water column above the thermocline. Additionally, in order to accurately calculate compliance with water quality based limits to the lake expressed in yearly loads, monitoring should include flow estimation or monitoring as well as the water quality concentration measurements.	At a minimum twice during summer months and once during winter.
Stormwater Monitoring	Stormwater sources should be measured near the point where they enter the lakes for at minimum: ammonia, TKN or organic nitrogen, nitrate plus nitrite, orthophosphate, total phosphorus, total suspended solids and total dissolved solids.	Twice a year.
Reporting	Annual reporting of monitoring results to the Regional Water Board.	December 15, 2013, and annually thereafter.
Peck Road Park Lake PCBs and Organochlorine Pesticide TMDLs		
Compliance Monitoring	At a minimum, compliance monitoring should measure the following in-lake water quality parameters: total suspended sediments, total PCBs, total chlordane, total DDTs, and dieldrin; as well as the following in-lake sediment parameters: total organic carbon, total PCBs, total chlordane, total DDTs, and dieldrin. Environmentally relevant detection limits should be used (i.e., detection limits lower than applicable target), if available at a commercial laboratory. Measurements of the temperature, dissolved oxygen, pH and electrical conductivity should also be taken throughout the water column with a water quality probe along with Secchi depth measurement.	December 15, 2013, and annually thereafter.
Fish Tissue Monitoring	Monitoring of fish tissue. For the OC pesticides and PCBs TMDLs, a demonstration that fish tissue targets have been met in any given year must at minimum include a composite sample of skin off fillets from at least five common carp each measuring at least 350mm in length.	At least every three years.
Stormwater Monitoring	Stormwater sources should be measured near the point where they enter the lakes. Sampling should be designed to collect sufficient volumes of suspended solids to	Once a year during a wet weather event.

	allow for the analysis of at minimum: total organic carbon, total suspended solids, total PCBs, total chlordane, total DDTs, and dieldrin. Measurements of the temperature, dissolved oxygen, pH and electrical conductivity should also be taken.	
Reporting	Annual reporting of monitoring results to the Regional Water Board.	December 15, 2013, and annually thereafter.
Peck Road Park Lake Trash TMDL		
Compliance Monitoring	Responsible jurisdictions should monitor the trash quantity deposited in the vicinity of Peck Road Park Lake as well as in the waterbody to comply with the TMDL target and to understand the effectiveness of various implementation efforts. The Rapid Trash Assessment Method is recommended.	Quarterly.
Reporting	Annual reporting of monitoring results to the Regional Water Board.	December 15, 2013, and annually thereafter.

E. Reporting Requirements for San Gabriel River WMA TMDLs

Deliverable	Description	Due Date(s)
San Gabriel River and Impaired Tributaries Metals and Selenium TMDL		
Coordinated Monitoring Plan	Permittees shall develop a Coordinated Monitoring Plan, to be approved by the Regional Water Board Executive Officer, which includes both TMDL effectiveness monitoring and ambient monitoring. The ambient monitoring program shall contain monitoring in all reaches and major tributaries of the San Gabriel River, including but not limited to additional dry- and wet-weather monitoring in the San Gabriel River Reaches 4 and 5 and Walnut Creek, additional dry-weather monitoring in San Gabriel River Reach 2, and additional wet-weather monitoring in San Jose Creek, San Gabriel River Reaches 1 and 3, and the Estuary. Sediment samples shall be collected semi-annually in the Estuary and analyzed for sediment toxicity resulting from copper, lead, selenium, and zinc. The TMDL effectiveness monitoring shall demonstrate the effectiveness of the phased implementation schedule for reducing pollutant loads to achieve the dry- and wet-weather water quality based effluent limitations. Monitoring stations specified for the ambient monitoring program may be used for the TMDL effectiveness monitoring. The final dry-weather monitoring stations shall be located in San Jose Creek Reach 1 and the Estuary. The final wet-weather TMDL effectiveness monitoring stations may be located at the existing Los Angeles County Department of Public Works mass emission sites in San Gabriel River Reach 2 and Coyote Creek. Permittees shall sample once per month, during dry-weather conditions, at each proposed TMDL effectiveness monitoring location. Permittees shall sample at least 4 wet-weather events where flow meets wet-weather conditions (260 cfs in San Gabriel River Reach 2 and 156 cfs in Coyote Creek) in a given storm season (November to March), unless there are fewer than 4 wet-weather events, at each proposed TMDL effectiveness monitoring location. Permittees are encouraged to coordinate with the San Gabriel watershed-wide monitoring program to avoid duplication and leverage resources.	Submit an IMP or CIMP plan concurrently with the Permittee's draft WMP, or If a WMP or IMP or CIMP will not be developed then submitted the Coordinated Monitoring Plan 12 months after the effective date of this Order.
Annual Monitoring Report	Annual reporting of monitoring results to the Regional Water Board.	December 15, 2013, and annually thereafter.
Implementation Plan	Permittees shall submit an Implementation Plan outlining how to achieve compliance with the water quality based effluent limitations, for approval of the Regional Water Board Executive Officer. The Plan shall include implementation methods, an implementation schedule, and proposed milestones.	1 year after the effective date of this Order
Los Angeles Area Lakes TMDLs		
Puddingstone Reservoir Nutrient TMDL		

Compliance Monitoring	At a minimum, compliance monitoring should measure the following in-lake water quality parameters: ammonia, TKN or organic nitrogen, nitrate plus nitrite, orthophosphate, total phosphorus, total suspended solids, total dissolved solids and chlorophyll a. Measurements of the temperature, dissolved oxygen, pH and electrical conductivity should also be taken throughout the water column with a water quality probe along with Secchi depth measurement. All parameters must meet target levels at half the Secchi depth. DO and pH must meet target levels from the surface of the water to 0.3 meters above the lake bottom when the lake is not stratified. However, when stratification occurs (i.e., a thermocline is present) then the DO and pH targets must be met in the epilimnion, the portion of the water column above the thermocline. Additionally, in order to accurately calculate compliance with water quality based limits to the lake expressed in yearly loads, monitoring should include flow estimation or monitoring as well as the water quality concentration measurements.	At a minimum twice during summer months and once during winter.
Stormwater Monitoring	Stormwater sources should be measured near the point where they enter the lakes for at minimum: ammonia, TKN or organic nitrogen, nitrate plus nitrite, orthophosphate, total phosphorus, total suspended solids and total dissolved solids.	Twice a year.
Reporting	Annual reporting of monitoring results to the Regional Water Board.	December 15, 2013, and annually thereafter.
Puddingstone Reservoir Mercury TMDL		
Compliance Monitoring	At a minimum, compliance monitoring should measure the following in-lake water quality parameters: total mercury, methylmercury, chloride, sulfate, total organic carbon, alkalinity, total suspended solids, and total dissolved solids; as well as the following in-lake sediment parameters: total mercury, dissolved methylmercury, total organic carbon, total solids and sulfate. Measurements of the temperature, dissolved oxygen, pH and electrical conductivity should also be taken throughout the water column with a water quality probe along with Secchi depth measurement. Additionally, in order to accurately calculate compliance with allocations expressed in yearly loads, monitoring should include flow estimation or monitoring as well as water quality concentration measurements.	Twice a year.
Fish Tissue Monitoring	Monitoring should include monitoring of largemouth bass (325-375mm in length) fish tissue (skin-off fillets) for mercury concentration.	At least every three years.
Stormwater Monitoring	Stormwater sources should be measured near the point where they enter the lakes for at minimum: total mercury, methyl mercury, chloride, sulfate, total organic carbon, alkalinity, total suspended solids, and total dissolved solids.	Twice a year.
Reporting	Annual reporting of monitoring results to the Regional Water Board.	December 15, 2013, and annually thereafter.
Puddingstone Reservoir PCBs and Organochlorine Pesticide TMDLs		
Compliance Monitoring	At a minimum, compliance monitoring should measure the following in-lake water quality parameters: total suspended sediments, total PCBs, total chlordane, dieldrin, and total DDTs; as well as the following in-lake sediment parameters: total organic carbon, total PCBs, total chlordane, dieldrin, and total DDTs. Environmentally relevant detection limits should be used (i.e., detection limits lower than applicable target), if available at a commercial laboratory.	Annually.

	Measurements of the temperature, dissolved oxygen, pH and electrical conductivity should also be taken throughout the water column with a water quality probe along with Secchi depth measurement.	
Fish Tissue Monitoring	Monitoring of fish tissue. For the OC pesticides and PCBs TMDLs a demonstration that fish tissue targets have been met in any given year must at minimum include a composite sample of skin off fillets from at least five common carp each measuring at least 350mm in length.	At least every three years.
Stormwater Monitoring	Stormwater sources should be measured near the point where they enter the lakes. Sampling should be designed to collect sufficient volumes of suspended solids to allow for the analysis of at minimum: total organic carbon, total suspended solids, total PCBs, total chlordane, dieldrin, and total DDTs. Measurements of the temperature, dissolved oxygen, pH and electrical conductivity should also be taken.	Once a year during a wet weather event.
Reporting	Annual reporting of monitoring results to the Regional Water Board.	December 15, 2013, and annually thereafter.

F. Reporting Requirements for Los Cerritos Channel WMA TMDLs

Deliverable	Description	Due Date(s)
Los Cerritos Channel Metals TMDL		
Coordinated Monitoring Plan	Permittees shall develop a Coordinated Monitoring Plan, to be approved by the Regional Water Board Executive Officer, which includes both TMDL effectiveness monitoring and ambient monitoring. The ambient monitoring program shall be developed to track trends in water quality improvements in Los Cerritos Channel; to provide background information on hardness values; and the partitioning of metals between the total recoverable and dissolved fraction. TMDL effectiveness monitoring shall demonstrate the effectiveness of the phased implementation schedule for reducing pollutant loads to achieve the water quality based effluent limitations. Monitoring stations specified for the ambient monitoring program may be used for the TMDL effectiveness monitoring. Permittees shall sample at least 4 wet-weather events where flow meets wet-weather conditions (>23 cfs in Los Cerritos Channel above the tidal prism) in a given storm season.	Submit an IMP or CIMP plan concurrently with the Permittee's draft WMP, or If a WMP or IMP or CIMP will not be developed then submitted the Coordinated Monitoring Plan 12 months after the effective date of this Order.
Annual Monitoring Report	Annual reporting of monitoring results to the Regional Water Board.	December 15, 2013, and annually thereafter.
Implementation Plan	Permittees shall submit an Implementation Plan outlining how to achieve compliance with the water quality based effluent limitations, for approval of the Regional Water Board Executive Officer. The Plan shall include implementation methods, an implementation schedule, and proposed milestones.	1 year after the effective date of this Order
Colorado Lagoon OC Pesticides, PCBs, Sediment Toxicity, PAHs, and Metals TMDL		
Monitoring	Water column and sediment samples will be collected at the outlet of the storm drains discharging to the lagoon, while water column, sediment, and fish tissue samples will be collected in the West Arm, Central Arm, North Arm, at the outlet of the lagoon to Marine Stadium during an incoming tide, and at the outfall of Termino Avenue Drain to Marine Stadium as specified in the Colorado Lagoon TMDL Monitoring Plan (CLTMP).	February 1, 2013
Annual Monitoring Reports	Permittees shall submit annual monitoring reports to the Regional Water Board. All compliance monitoring must be conducted in conjunction with a Regional Water Board approved Quality Assurance Project Plan.	December 15, 2013, and annually thereafter.
Implementation Progress	Permittees shall submit annual progress reports on the status of implementation actions performed under the TMDL. The plan shall contain mechanisms for demonstration progress toward meeting the water quality based effluent limitations.	December 15, 2013, and annually thereafter.

G. Reporting Requirements for Middle Santa Ana River WMA TMDL

Deliverable	Description	Due Date(s)
Middle Santa Ana River Watershed Bacteria Indicator TMDL		
Bacterial Indicator Water Quality Monitoring Plan	Permittees shall develop and submit for approval by the Executive Officer of the Regional Water Board a Bacterial Indicator Water Quality Monitoring Plan in accordance with the TMDL.	Submit an IMP or CIMP plan concurrently with the Permittee's draft WMP, or If a WMP or IMP or CIMP will not be developed then submitted the Monitoring Plan 12 months after the effective date of this Order.
Bacterial Indicator Urban Source Evaluation Plan	Permittees shall develop and submit for approval by the Regional Water Board a Bacterial Indicator Urban Source Evaluation Plan. This plan shall include steps needed to identify specific activities, operations, and processes in urban areas that contribute bacterial indicators to San Antonio Channel. The plan shall also include a proposed schedule for completion of each of the steps identified.	1 year after the effective date of this Order
Progress Reports	Annual progress reports on implementation shall be submitted to the Regional Water Board.	December 15, 2013, and annually thereafter.

I, Samuel Unger, Executive Officer, do hereby certify that this Monitoring and Reporting Program is a full, true, and correct copy of the MRP adopted by the California Regional Water Quality Control Board, Los Angeles Region, on November 8, 2012.

Samuel Unger

Samuel Unger, P.E.
Executive Officer

Date: Dec. 5, 2012

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

LOS ANGELES REGION

320 W. 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576 - 6600 • Fax (213) 576 - 6640
http://www.waterboards.ca.gov/losangeles

ATTACHMENT F – FACT SHEET

FOR

ORDER R4-2012-0175
NPDES PERMIT NO. CAS004001

WASTE DISCHARGE REQUIREMENTS FOR MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) DISCHARGES WITHIN THE COASTAL WATERSHEDS OF LOS ANGELES COUNTY, EXCEPT THOSE DISCHARGES ORIGINATING FROM THE CITY OF LONG BEACH MS4

November 8, 2012

ATTACHMENT F – FACT SHEET

Table of Contents

I. Permit Information 4
II. Facility Description 5
A. Description of the Los Angeles County MS4 5
B. The Need to Regulate Discharges from MS4s 7
C. Summary of Existing Requirements and Self-Monitoring Report (SMR) Data 11
III. Applicable Statutes, Regulations, Plans, and Policies 14
A. Legal Authorities – Federal Clean Water Act and California Water Code 14
B. Federal and California Endangered Species Acts 14
C. California Environmental Quality Act (CEQA) 14
D. State and Federal Regulations, Policies, and Plans 14
E. Impaired Water Bodies on CWA section 303(d) List 20
F. Other Plans, Policies and Regulations 21
IV. Rationale For Discharge Specifications 21
A. Discharge Prohibitions – Non-Storm Water Discharges 21
B. Technology-Based Effluent Limitations 31
C. Water Quality-Based Effluent Limitations (WQBELs) 32
D. Final Effluent Limitations 35
E. Interim Effluent Limitations 35
V. Rationale for Receiving Water Limitations 35
A. Receiving Water Limitations 35
VI. Rationale for Provisions 40
A. Standard Provisions 40
B. Watershed Management Programs 40
C. Storm Water Management Program Minimum Control Measures (MCMs) 47
1. General Requirements 47
2. Progressive Enforcement 55
3. Modifications/Revisions 56
4. Public Information and Participation Program 56
5. Industrial/Commercial Business Program 58
6. Planning and Land Development Program 63
7. Development and Construction Program 72
8. Public Agency Activities Program 76
9. Illicit Connection and Illicit Discharge Elimination Program 80
D. Total Maximum Daily Load Provisions 83
E. Special Provisions: Miscellaneous Provisions 111
XIII. Rationale for Monitoring and Reporting Requirements 113
A. Integrated Monitoring Plans 113
B. TMDL Monitoring Plans 114
C. Receiving Water Monitoring 114
D. Outfall Based Monitoring 115
E. Storm Water Outfall Based Monitoring 116
F. Non-Stormwater Outfall-Based Screening and Monitoring Program 117
G. New Development/Re-Development Effectiveness Monitoring 132

H. Regional Studies 134
I. Aquatic Toxicity Monitoring Methods 134
J. Special Studies 136
K. Annual Reporting 136
L. Watershed Summary Information, Organization and Content 137
M. Jurisdictional Assessment and Reporting 137
N. TMDL Reporting 137
XIV. California Water Code Section 13241 137
XV. State Mandates 155
XVI. Public Participation 158

List of Tables

Table F-1. Facility and Discharger Information 4
Table F-2. Extent of Select Permittees' MS4s 6
Table F-3. Basin Plan Beneficial Uses 15
Table F-3B. Ocean Plan Beneficial Uses 19
Table F-4. State and Regional Water Board General Permits Referenced in this Permit 24
Table F-5. Timeline for the Implementation of Permit Requirements 48
Table F-7. Compliance Schedule for final compliance dates. 105
Table F-8. State-Adopted TMDLs with Past Final Implementation Deadlines 108
Table F-9. USEPA Established TMDLs with WLAs Assigned to MS4 Discharges 109
Table F-10. Summary of LA County Watersheds and Frequency of Receiving Water Exceeding Criteria - 2005 to 2011- Dry Season Data Analysis 122
Table F-11: Calculations of Freshwater Action Levels 129
Table F-12: Calculations of Saltwater Action Levels 130

ATTACHMENT F – FACT SHEET

As described in Part II of this Order, this Fact Sheet sets forth the significant factual, legal, methodological, and policy rationale that serve as the basis for the requirements of this Order.

This Order has been prepared under a standardized format to accommodate a broad range of discharge requirements for dischargers in California.

I. PERMIT INFORMATION

The following table summarizes administrative information related to the facility and the Dischargers.

Table F-1. Facility and Discharger Information

WDID	Various (See Table 4 of Order)
Dischargers	The Los Angeles County Flood Control District, the County of Los Angeles, and 84 incorporated cities within the coastal watersheds of Los Angeles County with the exception of the City of Long Beach (See Table 4 of Order)
Name of Facility	Municipal Separate Storm Sewer Systems (MS4s) within the Coastal Watersheds of Los Angeles County with the exception of the City of Long Beach MS4
Facility Address	Various
Facility Contact, Title and Phone	Various (See Table 4 of Order)
Mailing Address	Various (See Table 4 of Order)
Billing Address	Same as above
Type of Facility	Large Municipal Separate Storm Sewer System (MS4)[1]
Major or Minor Facility	Major
Watersheds	(1) Santa Clara River Watershed; (2) Santa Monica Bay Watershed Management Area, including Malibu Creek Watershed and Ballona Creek Watershed; (3) Los Angeles River Watershed; (4) Dominguez Channel and Greater Los Angeles/Long Beach Harbors Watershed Management Area; (5) Los Cerritos Channel and Alamitos Bay Watershed Management Area;(6) San Gabriel River Watershed; and (7) Santa Ana River Watershed

[1] According to 40 CFR § 122.26(b)(8), "[a] municipal separate storm sewer system (MS4) means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):
(i) Owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States;
(ii) Designed or used for collecting or conveying storm water;
(iii) Which is not a combined sewer; and
(iv) Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2."

Receiving Water	Surface waters identified in Tables 2-1, 2-1a, 2-3, and 2-4, and Appendix 1, Table 1 of the Water Quality Control Plan - Los Angeles Region (Basin Plan), and other unidentified tributaries to these surface waters within the following Watershed Management Areas: (1) Santa Clara River Watershed; (2) Santa Monica Bay Watershed Management Area, including Malibu Creek Watershed and Ballona Creek Watershed; (3) Los Angeles River Watershed; (4) Dominguez Channel and Greater Los Angeles/Long Beach Harbors Watershed Management Area; (5) Los Cerritos Channel and Alamitos Bay Watershed Management Area; (6) San Gabriel River Watershed; and (7) Santa Ana River Watershed[2].
Receiving Water Type	Inland surface waters, estuarine waters, and marine waters, including wetlands, lakes, rivers, estuaries, lagoons, harbors, bays, and beaches

The Los Angeles County Flood Control District, Los Angeles County, and the 84 municipalities listed in Table F-2 above are the owners and/or operators[3] of Municipal Separate Storm Sewer Systems within the Coastal Watersheds of Los Angeles County (hereinafter Facility).

For the purposes of this Order, the entities listed in Table 4 of the Order are hereinafter referred to separately as "Permittees" and jointly as the "Dischargers." References to "discharger" or "permittee" or "co-permittee" or "municipality" in applicable federal and state laws, regulations, plans, or policy are held to be equivalent to references to the Dischargers or Permittees herein.

II. FACILITY DESCRIPTION

A. Description of the Permittees' MS4s

The Permittees' MS4s, like many MS4s in the nation, are based on regional floodwater management systems that use both natural and altered water bodies to achieve flood management goals. The Permittees' MS4s comprise a large interconnected system, controlled in large part by the Los Angeles County Flood Control District (LACFCD), among others, and used by multiple cities along with Los Angeles County. This extensive system conveys storm water and non-storm water across municipal boundaries where it is commingled within the MS4 and then discharged to receiving water bodies.

[2] Note that the Santa Ana River Watershed lies primarily within the boundaries of the Santa Ana Regional Water Quality Control Board. However, a portion of the Chino Basin subwatershed lies within the jurisdictions of Pomona and Claremont in Los Angeles County. The primary receiving water within the Los Angeles County portion of the Chino Basin subwatershed are San Antonio Creek and Chino Creek.

[3] Owner or operator means the owner or operator of any facility or activity subject to regulation under the NPDES program (40 CFR § 122.2).

In 1915, the California Legislature enacted the Los Angeles County Flood Control Act, establishing the Los Angeles County Flood Control District (LACFCD). The objects and purposes of the Act are to provide for the control and conservation of the flood, storm and other waste waters within the flood control district. Among its other powers, the LACFCD also has the power to preserve, enhance, and add recreational features to lands or interests in lands contiguous to its properties for the protection, preservation, and use of the scenic beauty and natural environment for the properties or the lands. The LACFCD is governed, as a separate entity, by the County of Los Angeles Board of Supervisors.

The area covered under this Order encompasses more than 3,000 square miles. This area contains a vast drainage network that serves incorporated and unincorporated areas in every Watershed Management Area within the Los Angeles Region. Maps depicting the major drainage infrastructure within the area covered under this Order are included in Attachment C of this Order.

The total length of the Permittees' MS4s, and the locations of all storm drain connections, are not known exactly, as a comprehensive map for the MS4 does not exist. Rough estimates, based on information from the LACFCD and large municipalities (population > 100,000), indicate that the length exceeds 4,300 miles, as shown below. The LACFCD's system includes the majority of drainage infrastructure within incorporated and unincorporated areas in every watershed, including approximately 500 miles of open channel, 3,500 miles of underground drains, and an estimated 88,000 catch basins, and several dams. Portions of the LACFCD's current system were originally unmodified natural rivers and water courses.

Table F-2. Extent of Select Permittees' MS4s

Permittee	Area (Square Miles)	Catch Basins	Storm Drain Length	Open Channel Length
LACFCD/ LA County	3,100	88,000	3,500 miles	500 miles
City of LA	469	30,000	1,600 miles	31 miles
El Monte	10	316	11 miles	0.4 mile
Glendale	30.6	1,100	Unknown	Unknown
Inglewood	9	1,157	12 miles	Unknown
Pasadena	26	1,050	30	Unknown
Santa Monica	8.3	850	Unknown	Unknown
Torrance	20	2,000	20 miles	3 miles
TOTAL	**approx. 3,672.9**	**approx. 109,473**	**approx. 4,323**	**approx. 484.4**

Unlike other Permittees, the LACFCD does not own or operate any municipal sanitary sewer systems, public streets, roads, or highways, and has no planning, zoning, development permitting or other land use authority over industrial or commercial facilities, new developments or re-development projects, or development construction sites located in any incorporated or unincorporated areas within its service area. Nonetheless, as an owner and operator of MS4s, the LACFCD is required by federal regulations to control pollutant discharges into and from its MS4, including the ability to control through interagency agreements among co-permittees and other owners of a MS4 the contribution of pollutants from one portion of the MS4 to another portion of the MS4. Additionally, the Los Angeles County Flood Control District does own the County of Los Angeles Department of Public Works headquarters building and Los Angeles County Flood Control District maintenance yards to support its field operations.

Storm water and non-storm water are conveyed through the MS4s and ultimately discharged into receiving waters of the Los Angeles Region. MS4s subject to this Order receive storm water and non-storm water flows from various sources. These flows come from MS4s owned by the Permittees covered by this Order and other public agencies, NPDES permitted discharges, discharges authorized by the USEPA (including discharges subject to a decision document approved pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)), groundwater, and natural flows.

The requirements contained in this Order apply to the Los Angeles County Flood Control District, 84 cities within the coastal watersheds of Los Angeles County, and the unincorporated areas of Los Angeles County under County jurisdiction, with the exception of the City of Long Beach. Under the previous Order, Order No. 01-182, the Los Angeles County Flood Control District was designated the Principal Permittee, and the County of Los Angeles and the 84 incorporated cities were designated co-Permittees. However, in this Order, the role of Principal Permittee has been eliminated. This Order divides Los Angeles County into seven Watershed Management Areas (WMAs).

B. The Need to Regulate Discharges from MS4s

The quality of storm water and non-storm water discharges from MS4s is fundamentally important to the health of the environment and the quality of life in Southern California. Polluted storm water and non-storm water discharges from MS4s are a leading cause of water quality impairment in the Los Angeles Region. Storm water and non-storm water discharges are often contaminated with pesticides, fertilizers, fecal indicator bacteria and associated pathogens, trash, automotive byproducts, and many other toxic substances generated by activities in the urban environment. Water that flows over streets, parking lots, construction sites, and industrial, commercial, residential, and municipal areas carries these untreated pollutants through the MS4 directly into the receiving waters of the Region. The water quality impacts, ecosystem impacts, and increased public health risks from MS4 discharges that affect receiving waters nationwide and throughout Los Angeles County, including its coastline, are well documented.

The National Urban Runoff Program (NURP) Study (USEPA 1983) showed that MS4 discharges draining from residential, commercial, and light industrial areas contain significant loadings of total suspended solids and other pollutants. Many studies continue to support the conclusions of the NURP Study. The NURP Study also found that pollutant levels from illicit discharges were high enough to significantly degrade receiving water quality, and threaten aquatic life, wildlife, and human health. The general findings and conclusions of the NURP Study are reiterated in the more recent 2008 National Research Council report "Urban Runoff Management in the United States" as well as in a regional study, "Sources, Patterns and Mechanisms of storm Water Pollutant Loading from Watersheds and Land Uses of the Greater Los Angeles Area, California," SCCWRP Technical Report 510 (2007), funded in large part by the Regional Water Board.

Some of the conclusions of the 2007 regional study were as follows.

Storm water runoff from watershed and land use based sources is a significant contributor of pollutant loading and often exceeds water quality standards. High pollutant concentrations were observed throughout the study at both mass emission (ME) and land use (LU) sites. Pollutant concentrations frequently exceeded water quality standards.

Storm water Event Mean Concentrations (EMCs), fluxes and loads were substantially lower from undeveloped open space areas when compared to developed urbanized watersheds. Storms sampled from less developed watersheds produced pollutant EMCs and fluxes that were one to two orders of magnitude lower than comparably sized storms in urbanized watersheds. Furthermore, the higher fluxes from developed watersheds were generated by substantially less rainfall than the lower fluxes from the undeveloped watersheds, presumably due to increased impervious surface area in developed watersheds.

The Los Angeles region contributed a similar range of storm water runoff pollutant loads as that of other regions of the United States. Comparison of constituent concentrations in storm water runoff from land use sites from this study reveal median EMCs that are comparable to U.S. averages reported in the National Storm water Quality Database (NSQD; Pitt et al., 2003). Comparison to the NSQD data set provides insight to spatial and temporal patterns in constituent concentrations in urban systems. Similarities between levels reported in the NSQD and this study suggest that land-based concentrations in southern California storm water are generally comparable to those in other parts of the country.

Peak concentrations for all constituents were observed during the early part of the storm. Constituent concentrations varied with time over the course of storm events. For all storms sampled, the highest constituent concentrations occurred during the early phases of storm water runoff with peak concentrations usually preceding peak flow. Although the pattern of an early peak in concentration was comparable in both large and small developed watersheds, the peak concentration tended to occur later in the storm and persist for a longer duration in the smaller developed watersheds. Therefore monitoring programs must capture the early portion of storms and account for intra-

storm variability in concentration in order to generate accurate estimates of EMC and contaminant loading. Programs that do not initiate sampling until a flow threshold has been surpassed may severely underestimate storm EMCs.

Highest constituent loading was observed early in the storm season with intra-annual variability driven more by antecedent dry period than amount of rainfall. Seasonal differences in constituent EMCs and loads were consistently observed at both ME and LU sites. In general, early season storms (October – December) produce significantly higher constituent EMCs and loads than late season storms (April-May), even when rainfall quantity was similar. This suggests that the magnitude of constituent load associated with storm water runoff depends, at least in part, on the amount of time available for pollutant build-up on land surfaces. The extended dry period that typically occurs in arid climates such as southern California maximizes the time for constituents to build-up on land surfaces, resulting in proportionally higher concentrations and loads during initial storms of the season.

The 1992, 1994, and 1996 National Water Quality Inventory Reports to Congress prepared by USEPA showed a trend of impairment in the Nation's waters from contaminated storm water and dry weather urban runoff. The 2004 National Water Quality Inventory (305(b) Report) showed that urban runoff/storm water discharges contribute to the impairment of 22,559 miles of streams, the impairment of 701,024 acres of lakes, and the impairment of 867 square miles of estuaries in the United States. The Natural Resources Defense Council (NRDC) 1999 Report, "Stormwater Strategies, Community Responses to Runoff Pollution" identifies two main causes of the storm water pollution problem in urban areas. Both causes are directly related to development in urban and urbanizing areas:

Increased volume and velocity of surface runoff. There are three types of human-made impervious covers that increase the volume and velocity of runoff: (i) rooftop, (ii) transportation imperviousness, and (iii) non-porous (impervious) surfaces. As these impervious surfaces increase, infiltration will decrease, forcing more water to run off the surface, picking up speed and pollutants.

The concentration of pollutants in the runoff. Certain activities, such as those from industrial sites, are large contributors of pollutant concentrations to the MS4.

The report also identified several activities causing storm water pollution from urban areas, including practices of homeowners, businesses, and government agencies.

Studies conducted by the United States Geological Survey (USGS) confirm the link between urbanization and water quality impairments in urban watersheds due to contaminated storm water runoff.

Furthermore, the water quality impacts of urbanization and urban storm water discharges have been summarized by several other recent USEPA reports. Urbanization causes changes in hydrology and increases pollutant loads which adversely impact water quality and impair the beneficial uses of receiving waters.

Increases in population density and imperviousness result in changes to stream hydrology including:

- increased peak discharges compared to predevelopment levels;
- increased volume of storm water runoff with each storm compared to pre-development levels;
- decreased travel time to reach receiving water;
- increased frequency and severity of floods;
- reduced stream flow during prolonged periods of dry weather due to reduced levels of infiltration;
- increased runoff velocity during storms due to a combination of effects of higher discharge peaks, rapid time of concentration, and smoother hydraulic surfaces from channelization; and
- decreased infiltration and diminished groundwater recharge.

The Los Angeles County MS4 program has conducted monitoring to:

- quantify mass emissions for pollutants;
- identify critical sources for pollutants of concern in storm water;
- evaluate BMP effectiveness; and
- evaluate receiving water impacts, including impacts to tributaries.

The monitoring indicates that instream concentrations of pathogen indicators (fecal coliform and streptococcus), heavy metals (such as Pb, Cu, Zn) and pesticides (such as diazinon) exceed water quality standards. The mass emissions of pollutants to the ocean are significant from the urban WMAs such as the Los Angeles River WMA, Ballona Creek WMA, and Coyote Creek WMA, with the Los Angeles River WMA providing more than seventy percent of the loadings. Critical source data for facilities (such as auto-salvage yards, primary metal facilities, and automotive repair shops) show that total and dissolved heavy metals (Pb, Cu, Zn, and Cd), and total suspended solids (TSS) exceeded water quality standards by as much as two orders of magnitude. The results are consistent with a limited term study conducted by the Regional Water Board to characterize storm water runoff in the Los Angeles region in 1988 before the issuance of first MS4 permit. Storm water runoff data from predominant land uses in Los Angeles County showed similar patterns. Light industrial, commercial and transportation land uses showed the highest range of exceedances. A pesticide (diazinon) was detected in higher concentrations from residential land use. The data for polycyclic aromatic hydrocarbons (PAHs), a known pollutant of concern in urban storm water runoff, is inconclusive but improved analytical methods may yield more definitive results in the future. Receiving water impacts studies found that storm water discharges from urban watersheds exhibit toxicity attributable to heavy metals. Bioassessments of the benthic communities showed bioaccumulation of toxicants. Sediment analysis showed higher concentrations of pollutants, such as Pb and PAHs, in urban watersheds than in rural watersheds (2 to 4 times higher). In addition, toxicity of dry weather flows was observed with the cause of toxicity undetermined. Other studies have documented concentrations of pollutants that exceed water quality standards in storm drains flowing to the ocean during dry weather, and adverse health impacts from swimming near flowing storm drains.

Trash is also a serious and pervasive water quality problem in Los Angeles County. The Regional Water Board has determined that current levels of trash exceed the existing water quality objectives contained in the Basin Plan that are necessary to protect the beneficial uses of many surface waters. Regional Water Board staff regularly observes trash in surface waters throughout the Los Angeles region. Non-profit organizations such as Heal the Bay, Friends of the Los Angeles River (FoLAR) and others organize volunteer clean-ups periodically, and document the amount of trash collected. Trash in waterways causes significant water quality problems. Small and large floatables inhibit the growth of aquatic vegetation, decreasing habitat and spawning areas for fish and other living organisms. Wildlife living in rivers and in riparian areas can be harmed by ingesting or becoming entangled in floating trash. Except for large items, settleables are not always obvious to the eye. They include glass, cigarette butts, rubber, and construction debris, among other things. Settleables can be a problem for bottom feeders and can contribute to sediment contamination. Some debris (e.g. diapers, medical and household waste, and chemicals) are a source of bacteria and toxic substances. Floating debris that is not trapped and removed will eventually end up on the beaches or in the open ocean, keeping visitors away from our beaches and degrading coastal waters. Significant strides have been made by a number of Permittees in addressing this problem through the implementation of control measures to achieve wasteload allocations established in trash TMDLs.

C. Summary of Existing Requirements and Self-Monitoring Report (SMR) Data

The Los Angeles County MS4 Permit was last reissued in 2001 as Order No.01-182. Order No. 01-182 expired in 2006, but has been administratively extended pursuant to federal regulations. Order No. 01-182 was reopened by the Regional Water Board in 2006, 2007 and 2009 to incorporate provisions to implement three TMDLs. It was further amended in 2010 and 2011 pursuant to a peremptory writ of mandate issued by the Los Angeles County Superior Court.

Order No. 01-182 is organized under the following seven parts and includes several attachments. The description below summarizes key permit parts and attachments in Order No. 01-182:

Part 1 – Discharge Prohibitions

As required by section 402(p)(3)(B)(ii) of the Clean Water Act, Part 1 requires permittees to "effectively prohibit non-storm water discharges into the MS4 and watercourses, except where such discharges" are covered by a separate NPDES permit or fall within one of thirteen categories of flows that are conditionally exempted from the discharge prohibition. These exempted flows fall under the general categories of natural flows, fire fighting flows, and flows incidental to urban activities (i.e. landscape irrigation, sidewalk rinsing). These non-storm water flows may be exempted so long as: (i) they are not a source of pollutants, (ii) their effective prohibition is not necessary to comply with TMDL provisions, and (iii) they do not violate antidegradation policies. Part 1 also authorizes the Regional Water Board Executive Officer to impose conditions on these types of discharges and to add or remove categories of conditionally exempted non-storm water discharges based on their potential to contribute pollutants to receiving waters.

Part 2 – Receiving Water Limitations

Part 2 prohibits discharges from the MS4 that cause or contribute to the violation of water quality standards. In addition, discharges from the MS4 of storm water or non-storm water, for which a Permittee is responsible, may not cause or contribute to a condition of nuisance. Part 2.3 states that permittees shall comply with these prohibitions "through timely implementation of control measures and other actions to reduce pollutants in the discharges in accordance with [the Los Angeles Stormwater Quality Management Program (SQMP)] and its components and other requirements of [the LA County MS4 Permit]." Part 2.3 establishes an "iterative process" whereby certain actions are required when exceedances of water quality standards or objectives occur. This iterative process includes submitting a Receiving Water Limitations Compliance Report; revising the SQMP and its components to include modified BMPs, an implementation schedule and additional monitoring to address the exceedances; and implementing the revised SQMP. These provisions are consistent with the receiving water limitations language required by State Water Board Order WQ 99-05.

Part 2 also includes provisions implementing the Marina del Rey Harbor Mothers' Beach and Back Basins Bacteria TMDL (summer dry weather provisions only). During summer dry weather, Part 2.6 prohibits discharges of bacteria from MS4s into Marina del Rey Harbor Basins D, E, or F, including Mothers' Beach that cause or contribute to exceedance of the applicable bacteria water quality objectives.

Part 2 also included similar TMDL provisions relating to the Santa Monica Bay summer dry weather bacteria TMDL. However, as a result of a legal challenge by Los Angeles County and the LACFCD, the Regional Water Board was required to void and set aside those provisions, which the Regional Water Board did in 2011.

Part 3 – Stormwater Quality Management Program (SQMP) Implementation

Under Part 3, each Permittee shall, at a minimum, implement the SQMP, which is an enforceable element of the Los Angeles County MS4 Permit. The SQMP, at a minimum, shall also comply with the applicable storm water program requirements of 40 CFR section 122.26(d)(2). The SQMP and its components shall be implemented so as to reduce the discharges of pollutants in storm water to the maximum extent practicable (MEP) and effectively prohibit non-storm water discharges to the MS4. Each Permittee shall also implement additional controls, where necessary, to reduce the discharge of pollutants from the MS4.

Part 3 also sets forth specific responsibilities of the Principal Permittee, which under Order No. 01-182 is the LACFCD, and co-permittees. In addition, Part 3 sets forth requirements for Watershed Management Committees (WMCs) which, among other tasks, prioritize pollution control efforts and evaluate the effectiveness of and recommend changes to the SQMP and its components. Each Permittee must also have the necessary legal authority to prohibit non-storm water discharges to the MS4, as well as possess adequate legal authority to develop and enforce storm water and non-storm water ordinances for its jurisdiction.

Part 4 – Special Provisions

Part 4 sets forth provisions for public information and participation, industrial/commercial facilities control program, development planning, development construction, public agency activities, and illicit connections and illicit discharges elimination. These programs are termed "minimum control measures" and have been in place since the inception of the MS4 NPDES permitting program, as required by federal regulations.

Part 5 – Definitions

Part 5 includes definitions for terms used within Order No. 01-182.

Part 6 – Standard Provisions

Part 6 includes standard provisions relating to implementation of the programs required by the permit. Such provisions include, but are not limited to, the duty to comply, the duty to mitigate, inspection and entry requirements, proper operation and maintenance requirements, monitoring and reporting requirements, and the duty to provide information. Most of these provisions are required by 40 CFR sections 122.41 or 122.42 and apply to all NPDES permits.

Part 7 – TMDL Provisions

In 2009, Order No. 01-182 was amended to include provisions that are consistent with the assumptions and requirements of waste load allocations from the Los Angeles River Trash TMDL. Appendix 7-1 identifies the permittees subject to the Los Angeles River Trash TMDL and sets forth the interim and final numeric effluent limitations for trash that the permittees must comply with. Part 7 also sets forth how permittees can demonstrate compliance with the numeric effluent limitations. Permittees have the option to employ three general compliance strategies to achieve the numeric effluent limitations. Depending on the strategy selected, the Permittee may demonstrate compliance either by documenting the percentage of its area addressed by full capture systems ("action-based" demonstration) or by calculating its annual trash discharge to the MS4 and comparing that to its effluent limitation. This approach allows the Permittee the flexibility to comply with the numeric effluent limitations using any lawful means, and establishes appropriate and enforceable compliance metrics depending on the method of compliance and level of assurance provided by the Permittee that the selected method will achieve the numeric effluent limitations derived from the TMDL WLAs.

Attachment U – Monitoring and Reporting Program

Order No. 01-182 has both self-monitoring and public reporting requirements, which include: (1) monitoring of "mass emissions" at seven mass emission monitoring stations; (2) Water Column Toxicity Monitoring; (3) Tributary Monitoring; (4) Shoreline Monitoring; (5) Trash Monitoring; (6) Estuary Sampling; (7) Bioassessment; and (8) Special Studies. The purpose of mass emissions monitoring is to: (1) estimate the mass emissions from the MS4; (2) assess trends in the mass emissions over time; and (3) determine if the MS4 is contributing to exceedances of water quality standards by comparing results to the applicable standards in the Basin Plan. Order No. 01-182 established that the Principal Permittee shall monitor the mass emissions stations. The permit required mass emission sampling five times per year.

III. APPLICABLE STATUTES, REGULATIONS, PLANS, AND POLICIES

The provisions contained in this Order are based on the requirements and authorities described below.

A. Legal Authorities – Federal Clean Water Act and California Water Code

This Order is issued pursuant to section 402 of the federal Clean Water Act (CWA) and implementing regulations adopted by the USEPA and chapter 5.5, division 7 of the California Water Code (commencing with section 13370). It serves as an NPDES permit for point source discharges from this facility to surface waters. This Order also serves as Waste Discharge Requirements (WDRs) pursuant to article 4, chapter 4, division 7 of the California Water Code (commencing with section 13260).

B. Federal and California Endangered Species Acts

This Order does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code, §§ 2050 to 2115.5) or the Federal Endangered Species Act (16 U.S.C.A., §§ 1531 to 1544). This Order requires compliance with requirements to protect the beneficial uses of waters of the United States. Permittees are responsible for meeting all requirements of the applicable Endangered Species Act.

C. California Environmental Quality Act (CEQA)

This action to adopt an NPDES Permit is exempt from the provisions of Chapter 3 of the California Environmental Quality Act (CEQA) (Public Resources Code, § 21100, et seq.) pursuant to California Water Code section 13389. (*County of Los Angeles v. Cal. Water Boards* (2006) 143 Cal.App.4th 985.)

D. State and Federal Regulations, Policies, and Plans

1. **Water Quality Control Plans.** The CWA requires the Regional Water Board to establish water quality standards for each water body in its region. Water quality standards include beneficial uses, water quality objectives and criteria that are established at levels sufficient to protect those beneficial uses, and an antidegradation policy to prevent degrading waters. On June 13, 1994, the Regional Water Board adopted a *Water Quality Control Plan for the Coastal Watersheds of Los Angeles and Ventura Counties* (hereinafter Basin Plan). The Basin Plan designates beneficial uses, establishes water quality objectives, and contains implementation programs and policies to achieve those objectives for all waters in the Los Angeles Region. The Regional Water Board has amended the Basin Plan on multiple occasions since 1994. In addition, the Basin Plan implements State Water Resources Control Board (State Water Board) Resolution No. 88-63, which established state policy that all waters, with certain exceptions, should be considered suitable or potentially suitable for municipal or domestic supply. Beneficial uses applicable to the surface water bodies that receive discharges from the Los Angeles County MS4 generally include those listed below:

Table F-3. Basin Plan Beneficial Uses

Discharge Point	Receiving Water Name	Beneficial Use(s)
All Municipal Separate Storm Sewer Systems (MS4s) discharge points within the coastal watersheds of Los Angeles County with the exception of those originating in the City of Long Beach	Multiple surface water bodies of the Los Angeles Region	Municipal and Domestic Supply (MUN); Agricultural Supply (AGR); Industrial Service Supply (IND); Industrial Process Supply (PROC); Ground Water Recharge (GWR); Freshwater Replenishment (FRSH); Navigation (NAV); Hydropower Generation (POW); Water Contact Recreation (REC-1); Limited Contact Recreation (LREC-1); Non-Contact Water Recreation (REC-2); Commercial and Sport Fishing (COMM); Warm Freshwater Habitat (WARM); Cold Freshwater Habitat (COLD); Preservation of Areas of Special Biological Significance (BIOL); Wildlife Habitat (WILD); Preservation of Rare and Endangered Species (RARE); Marine Habitat (MAR); Wetland Habitat (WET); Migration of Aquatic Organisms (MIGR); Spawning, Reproduction, and/or Early Development (SPWN); Shellfish Harvesting (SHELL)

Pursuant to California Water Code sections 13263(a) and 13377, the requirements of this Order implement the Basin Plan.

a. Permit Structure: Watershed Management Approach and Total Maximum Daily Load (TMDL) Implementation

One of the fundamental issues for this Order was a reconsideration of the basic permit structure. The previous Order, Order No. 01-182, was structured as a single permit whereby all 86 Permittees were assigned uniform requirements, with additional requirements for the Principal Permittee. Through Order No. 01-182, the Regional Water Board began to implement a Watershed Management Approach to address water quality protection in the region. The Watershed Management Approach intended to provide a comprehensive and integrated strategy toward water resource protection, enhancement, and restoration while considering economic and environmental impacts within a hydrologically defined drainage basin or watershed.

On June 12, 2006, prior to the expiration date of Order No. 01-182, all of the Permittees filed Reports of Waste Discharge (ROWD) applying for renewal of their waste discharge requirements. Specifically, the Los Angeles County Flood Control District submitted an ROWD application on behalf of itself, the County of Los Angeles, and 78 other Permittees. Several Permittees under Order No. 01-182 elected to not be included as part of the Los Angeles County Flood Control District's ROWD. On June 12, 2006, the cities of Downey and Signal Hill each submitted an individual ROWD application requesting an individual MS4 permit; and the Upper San Gabriel River Watershed Coalition (comprised of the cities of Azusa, Claremont, Glendora, Irwindale, and Whittier) also submitted an individual ROWD application requesting a separate MS4 permit for these cities. In 2010, the LACFCD withdrew from its 2006 ROWD and submitted a new ROWD also

requesting an individual MS4 permit. The LACFCD also requested that it no longer be designated as the Principal Permittee and that it is relieved of Principal Permittee responsibilities.

The Regional Water Board evaluated each of the 2006 ROWDs and notified all of the Permittees that their ROWDs did not satisfy federal storm water regulations contained in the USEPA Interpretive Policy Memorandum on Reapplication Requirements for Municipal Separate Storm Sewer Systems; Final Rule, August 9, 1996 (61 *Fed Reg.* 41697). The Regional Water Board also found that the information presented in the ROWDs did not reflect the current status of program elements for MS4 permits developed over the past decade or the new information specific to this MS4. Because each ROWD did not satisfy federal requirements, the Regional Water Board deemed all four 2006 ROWDs incomplete. The Regional Water Board also evaluated the LACFCD's 2010 ROWD and found that it too did not satisfy federal requirements nor reflect the current status for MS4s.

Though five separate ROWDs were submitted, the Regional Water Board retains the discretion as the permitting authority to determine whether to issue permits for discharges from MS4s on a system-wide or jurisdiction-wide basis. Clean Water Act section 402(p)(3)(B)(i) and implementing regulations at 40 CFR section 122.26, subdivisions (a)(1)(v), (a)(3)(ii), and (a)(3)(iv) allow the permitting authority to issue permits for MS4 discharges on a system-wide or jurisdiction-wide basis taking into consideration a variety of factors. Such factors include the location of the discharge with respect to waters of the United States, the size of the discharge, the quantity and nature of the pollutants discharged to waters of the United States, and other relevant factors. Federal regulations at 40 CFR section 122.26(a)(3)(ii) identify a variety of possible permitting structures, including one system-wide permit covering all MS4 discharges or distinct permits for appropriate categories of MS4 discharges including, but not limited to, all discharges owned or operated by the same municipality, located within the same jurisdiction, all discharges within a system that discharge to the same watershed, discharges within a MS4 that are similar in nature, or for individual discharges from MS4s.

In evaluating the five separate ROWDs and the structure for this Order, the Regional Water Board considered a number of factors:

i. The nature of the Permittees' MS4s, which comprise a large interconnected system, controlled in large part by the Los Angeles County Flood Control District, among others, and used by multiple cities along with Los Angeles County. The discharges from these entities frequently commingle in the MS4 prior to discharge to receiving waters.

ii. The requirement to implement 33 largely watershed-based TMDLs in this Order. A number of Permittees have already established jurisdictional groups on a watershed or subwatershed basis for TMDL implementation. (See Attachment K of this Order for a matrix of these TMDLs and Permittees by

Watershed Management Area (WMA)). Many of the TMDLs apply to multiple watersheds and the jurisdictional areas of multiple Permittees. Having separate permits would make implementation of the TMDLs more cumbersome.

iii. The passage of Assembly Bill 2554 in 2010, which amended the Los Angeles County Flood Control Act. This statute allows the LACFCD to assess a property-related fee or charge for storm water and clean water programs. Funding is subject to voter approval in accordance with Proposition 218. Fifty percent of funding is allocated to nine "watershed authority groups" to implement collaborative water quality improvement plans. (See Attachments B and C of this Order for maps of WMAs.)

iv. Results of the on-line survey administered to Permittees by Regional Water Board staff regarding permit structure. The results indicated that a majority of Permittees support a single MS4 permit for Los Angeles County. A significant minority support multiple watershed-based permits. Overall, 85 percent of the permittees that responded to the on-line survey support either a single MS4 permit or several individual watershed-based permits. A small number of permittees support alternative groupings of adjacent municipalities instead of watershed-based groupings. Only four permittees expressed a preference for individual MS4 permits.

v. The 2006 and 2010 ROWDs. Eight Permittees submitted individual or small group ROWDs, including the cities of Signal Hill and Downey; five cities in the upper San Gabriel River watershed; and the Los Angeles County Flood Control District. The LACFCD has also requested that it is no longer designated as Principal Permittee and relieved of Principal Permittee responsibilities.

Based on an evaluation of these factors, the Regional Water Board again determined that, because of the complexity and networking of the MS4 within Los Angeles County, that one system-wide permit is appropriate. In order to provide individual Permittees with more specific requirements, this Order regulates the MS4 discharges of 86 Permittees with some sections devoted to universal requirements for all Permittees and others devoted to requirements specific to each Watershed Management Area (WMA), including TMDL implementation provisions. This structure is supported by section 402(p) of the Clean Water Act and 40 CFR sections 122.26, subdivisions (a)(1)(v), (a)(3)(ii), and (a)(3)(iv). A single permit will ensure consistency and equitability in regulatory requirements within Los Angeles County, while watershed-based sections within the single permit will provide flexibility to tailor permit provisions to address distinct watershed characteristics and water quality issues. Additionally, an internal watershed-based structure comports with the Regional Water Board's Watershed Management Initiative, its watershed-based TMDL requirements, and the LACFCD's funding initiative passed in Assembly Bill 2554. Watershed-based sections will help promote watershed-wide solutions to address water quality problems, which in many cases are the most efficient and cost-effective means to address storm water and urban runoff pollution. Further, watershed-based

sections may encourage collaboration among permittees to implement regional integrated water resources approaches such as storm water capture and re-use to achieve multiple benefits.

The Regional Water Board determined that the cities of Signal Hill and Downey, the five upper San Gabriel River cities, and the LACFCD are included as Permittees in this Order. Individually tailored permittee requirements are provided in this Order, where appropriate.

The Regional Water Board also determined that because the LACFCD owns and operates large portions of the MS4 infrastructure, including but not limited to catch basins, storm drains, outfalls and open channels, in each coastal watershed management area within Los Angeles County, the LACFCD should remain a Permittee in the single-system wide permit; however, this Order relieves LACFCD of its role and responsibilities as Principal Permittee. Additionally, given the LACFCD's limited land use authority, it is appropriate for the LACFCD to have a separate and uniquely-tailored storm water management program. Accordingly, the storm water management program minimum control measures imposed on the LACFCD in Part VI.D of this Order differ in some ways from the minimum control measures imposed on other Permittees. Namely, aside from its own properties and facilities, the LACFCD is not subject to the Industrial/Commercial Facilities Program, the Planning and Land Development Program, and the Development Construction Program. However, as a discharger of storm and non-storm water, the LACFCD remains subject to the Public Information and Participation Program and the Illicit Connections and Illicit Discharges Elimination Program. Further, as the owner and operator of certain properties, facilities and infrastructure, the LACFCD remains subject to requirements of a Public Agency Activities Program.

2. **Ocean Plan.** In 1972, the State Water Board adopted the Water Quality Control Plan for Ocean Waters of California, California Ocean Plan (hereinafter Ocean Plan). The State Water Board adopted the most recent amended Ocean Plan on September 15, 2009. The Office of Administration Law approved it on March 10, 2010. On October 8, 2010, USEPA approved the 2009 Ocean Plan. The Ocean Plan is applicable, in its entirety, to ocean waters of the State. In order to protect beneficial uses, the Ocean Plan establishes water quality objectives and a program of implementation. Pursuant to California Water Code sections 13263(a) and 13377, the requirements of this Order implement the Ocean Plan. The Ocean Plan identifies beneficial uses of ocean waters of the State to be protected as summarized below:

Table F-3B. Ocean Plan Beneficial Uses

Discharge Point	Receiving Water Name	Beneficial Use(s)
All Municipal Separate Storm Sewer Systems (MS4s) discharge points within the coastal watersheds of Los Angeles County with the exception of those originating within the City of Long Beach	Pacific Ocean	Industrial Water Supply (IND); Water Contact (REC-1) and Non-Contact Recreation (REC-2), including aesthetic enjoyment; Navigation (NAV); Commercial and Sport Fishing (COMM); Mariculture; Preservation and Enhancement of Designated Areas of Special Biological Significance (ASBS); Rare and Endangered Species (RARE); Marine Habitat (MAR); Fish Migration (MIGR); Fish Spawning (SPWN) and Shellfish Harvesting (SHELL)

3. **Antidegradation Policy.** 40 CFR section 131.12[4] requires that the state water quality standards include an antidegradation policy consistent with the federal antidegradation policy. The State Water Board established California's antidegradation policy in State Water Board Resolution No. 68-16 ("Statement of Policy with Respect to Maintaining the Quality of the Waters of the State"). Resolution No. 68-16 incorporates the federal antidegradation policy where the federal policy applies under federal law. The Regional Water Board's Basin Plan implements, and incorporates by reference, both the State and federal antidegradation policies. Resolution No. 68-16 and 40 CFR section 131.12 require the Regional Water Board to maintain high quality waters of the State until it is demonstrated that any change in quality will be consistent with maximum benefit to the people of the State, will not unreasonably affect beneficial uses, and will not result in water quality less than that described in the Regional Water Board's policies. Resolution 68-16 requires that discharges of waste be regulated to meet best practicable treatment or control to assure that pollution or nuisance will not occur and the highest water quality consistent with the maximum benefit to the people of the State be maintained.

   The discharges permitted in this Order are consistent with the antidegradation provisions of 40 CFR section 131.12 and Resolution 68-16. Many of the water bodies within the area covered by this Order are of high quality. The Order requires the Permittees to meet best practicable treatment or control to meet water quality standards. As required by 40 CFR section 122.44(a), the Permittees must comply with the "maximum extent practicable" technology-based standard set forth in CWA section 402(p). Many of the waters within the area covered by this Order are impaired and listed on the State's CWA Section 303(d) List and either the Regional Water Board or USEPA has established TMDLs to address the impairments. This Order requires the Permittees to comply with permit provisions to implement the WLAs set forth in the TMDLs in order to restore the beneficial uses of the impaired

[4] All further statutory references are to title 40 of the Code of Federal Regulations unless otherwise indicated.

water bodies consistent with the assumptions and requirements of the TMDLs. This Order includes requirements to develop and implement storm water management programs, achieve water quality-based effluent limitations, and effectively prohibit non-storm water discharges through the MS4.

The issuance of this Order does not authorize an increase in the amount of discharge of waste. The Order includes new requirements to implement WLAs assigned to Los Angeles County MS4 discharges that have been established in 33 TMDLs, most of which were not included in the previous Order.

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

E. Impaired Water Bodies on CWA section 303(d) List

Section 303(d)(1) of the CWA requires each state to identify specific water bodies within its boundaries where water quality standards are not being met or are not expected to be met after implementation of technology-based effluent limitations on point sources. Water bodies that do not meet water quality standards are considered impaired and are placed on the state's "303(d) List". Periodically, USEPA approves the State's 303(d) List. Most recently, USEPA approved the State's 2010 303(d) List of impaired water bodies on October 11, 2011, which includes certain receiving waters in the Los Angeles region. For each listed water body, the state or USEPA is required to establish a total maximum daily load (TMDL) of each pollutant impairing the water quality standards in that water body. A TMDL is a tool for implementing water quality standards and is based on the relationship between pollution sources and in-stream water quality conditions. The TMDL establishes the allowable pollutant loadings for a water body and thereby provides the basis to establish water quality-based controls. These controls should provide the pollution reduction necessary for a water body to meet water quality standards. A TMDL is the sum of the allowable pollutant loads of a single pollutant from all contributing point sources (the waste load allocations or WLAs) and non-point sources (load allocations or LAs), plus the contribution from background sources and a margin of safety. (40 CFR section 130.2(i).) MS4 discharges are considered point source discharges. For 303(d)-listed water bodies and pollutants in the Los Angeles Region, the Regional Water Board or USEPA develops and adopts TMDLs that specify these requirements.

Over the last decade, the Regional Water Board and USEPA have established 33 TMDLs to remedy water quality impairments in various water bodies within Los Angeles County. (See Attachment K of this Order for a list of TMDLs by Watershed Management Area for Los Angeles County.) These TMDLs identify MS4 discharges as a source of pollutants to these water bodies and, as required, establish WLAs for MS4 discharges to reduce the amount of pollutants discharged to receiving waters. Section 402(p)(3)(B)(iii) of the Clean Water Act requires the Regional Water Board to impose permit conditions, including: "management practices, control techniques and system,

design and engineering methods, and *such other provisions as the Administrator of the State determines appropriate for the control of such pollutants*." (emphasis added.) Section 402(a)(1) of the Clean Water Act also requires states to issue permits with conditions necessary to carry out the provisions of the Clean Water Act. Federal regulations also require that NPDES permits contain effluent limits consistent with the assumptions and requirements of all available WLAs (40 CFR § 122.44(d)(1)(vii)(B)). California Water Code section 13377 also requires that NPDES permits include limitations necessary to implement water quality control plans. Therefore, this Order includes effluent limitations and other provisions to implement the TMDL WLAs assigned to permittees regulated by the LA County MS4 Permit.

The Regional Water Board has previously established numeric effluent limitations to implement TMDL WLAs when it reopened Order No. 01-182 in 2009 to incorporate permit provisions to implement the Los Angeles River Watershed Trash TMDL WLAs. In that case, Permittees have the option to employ three general compliance strategies to achieve the numeric effluent limitations. Depending on the strategy selected, the Permittee may demonstrate compliance either by documenting the percentage of its area addressed by full capture systems ("action-based" demonstration) or by calculating its annual trash discharge to the MS4 and comparing that to its effluent limitation. This approach allows the Permittee the flexibility to comply with the numeric effluent limitations using any lawful means, and establishes appropriate and enforceable compliance metrics depending on the method of compliance and level of assurance provided by the Permittee that the selected method will achieve the numeric effluent limitations derived from the TMDL WLAs. A similar approach is used for the 32 other TMDLs incorporated into this Order, where appropriate.

F. Other Plans, Policies and Regulations

This Order implements all other applicable federal regulations and State plans, policies and regulations, including the California Toxics Rule at 40 CFR section 131.38.

IV. RATIONALE FOR DISCHARGE SPECIFICATIONS

A. Discharge Prohibitions – Non-Storm Water Discharges

1. Regulatory Background

The CWA employs the strategy of prohibiting the discharge of any pollutant from a point source into waters of the United States unless the discharger of the pollutant(s) obtains an NPDES permit pursuant to CWA section 402. The 1987 amendment to the CWA included section 402(p) that specifically addresses NPDES permitting requirements for municipal discharges from MS4s. Section 402(p) prohibits the discharge of pollutants from specified MS4s to waters of the United States except as authorized by an NPDES permit and identifies the substantive standards for MS4 permits. MS4 permits (1) "shall include a requirement to effectively prohibit non-stormwater discharges into the storm sewers[ ]" and (2) "shall require [i] controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering

methods, and [ii] such other provisions as the Administrator or the State determines appropriate for the control of such pollutants." (CWA § 402(p)(3)(B)(ii-iii).)

On November 16, 1990, USEPA published regulations to implement the 1987 amendments to the CWA. (55 Fed.Reg. 47990 et seq. (Nov. 16, 1990)). The regulations establish minimum requirements for MS4 permits. The regulations address both storm water and non-storm water discharges from MS4s; however, the minimum requirements for each are significantly different. This is evident from USEPA's preamble to the storm water regulations, which states that "Section 402(p)(B)(3) [of the CWA] requires that permits for discharges from municipal separate storm sewers require the municipality to "effectively prohibit" non-storm water discharges from the municipal storm sewer … Ultimately, such non-storm water discharges through a municipal separate storm sewer system must either be removed from the system or become subject to an NPDES permit." (55 Fed.Reg. 47990, 47995 (Nov. 16, 1990).[5] USEPA states that MS4 Permittees are to begin to fulfill the "effective prohibition of non-storm water discharges" requirement by: (1) conducting a screening analysis of the MS4 to provide information to develop priorities for a program to detect and remove illicit discharges, (2) implementing a program to detect and remove illicit discharges, or ensure they are covered by a separate NPDES permit, and (3) to control improper disposal into the storm sewer. (40 CFR § 122.26(d)(2)(iv)(B).) These non-storm water discharges therefore are not subject to the MEP standard.

"Illicit discharges" defined in the regulations is the most closely applicable definition of "non-storm water" contained in federal law and the terms are often used interchangeably. In fact, "illicit discharge" is defined by USEPA in its 1990 rulemaking, as "any discharge through a municipal separate storm sewer that is not composed entirely of storm water and that is not covered by an NPDES permit [other than the permit for the discharge from the MS4]." (55 Fed.Reg. 47990, 47995).

2. Definition of Storm Water and Non-Storm Water

Federal regulations define "storm water" as "storm water runoff, snow melt runoff, and surface runoff and drainage." (40 C.F.R. § 122.26(b)(13).) While "surface runoff and drainage" is not defined in federal law, USEPA's preamble to the federal regulations demonstrates that the term is related to precipitation events such as rain and/or snowmelt. (55 Fed.Reg. 47990, 47995-96 (Nov. 16, 1990)). For example, USEPA states:

> In response to the comments [on the proposed rule] which requested EPA to define the term 'storm water' broadly to include a number of classes of discharges which are not in any way related to precipitation events, EPA believes that this rulemaking is not an appropriate forum for addressing the appropriate regulation under the NPDES program of such non-storm water discharges . . . . Consequently, the final definition of storm water has not been expanded from what was proposed.

[5] USEPA further states that, "[p]ermits for such [non-storm water] discharges must meet applicable technology-based and water-quality based requirements of Sections 402 and 301 of the CWA." (55 Fed. Reg. 47990, 48037 (Nov. 16, 1990)).

(*Ibid.*) The storm water regulations themselves identify numerous categories of discharges including landscape irrigation, diverted stream flows, discharges from drinking water supplier sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, and street wash water as "non-storm water." While these types of discharges may be regulated under storm water permits, they are not considered storm water discharges. (40 CFR § 122.26(d)(2)(iv)(B)). USEPA states that, "in general, municipalities will not be held responsible for prohibiting some specific components of discharges or flows … through their municipal separate storm sewer system, *even though such components may be considered non-storm water discharges*…" (emphasis added). However, where certain categories of non-storm water discharges are identified by the Permittee (or the Regional Water Board) as needing to be addressed, they are no longer exempt and become subject to the effective prohibition requirement in CWA section 402(p)(3)(B)(ii). This review of the storm water regulations and USEPA's discussion of the definition of storm water in its preamble to these regulations strongly supports the interpretation that storm water includes only precipitation-related discharges. Therefore, non-precipitation related discharges are not storm water discharges and, therefore, are not subject to the MEP standard in CWA section 402(p)(3)(B)(iii). Rather, non-storm water discharges shall be effectively prohibited pursuant to CWA section 402(p)(3)(B)(ii).

3. Non-Storm Water Regulation

Non-storm water discharges from the MS4 that are not authorized by separate NPDES permits, nor specifically exempted, are subject to requirements under the NPDES program, including discharge prohibitions, technology-based effluent limitations and water quality-based effluent limitations (40 CFR § 122.44). USEPA's preamble to the storm water regulations also supports the interpretation that regulation of non-storm water discharges through an MS4 is not limited to the MEP standard in CWA section 402(p)(3)(B)(iii):

"*Today's rule defines the term "illicit discharge" to describe any discharge through a municipal separate storm sewer system that is not composed entirely of storm water and that is not covered by an NPDES permit. Such illicit discharges are not authorized under the Clean Water Act. Section 402(p(3)(B) requires that permits for discharges from municipal separate storm sewers require the municipality to "effectively prohibit" non-storm water discharges from the municipal separate storm sewer…Ultimately, such non-storm water discharges through a municipal separate storm sewer must either be removed from the system or become subject to an NPDES permit.*" (55 Fed.Reg. 47990, 47995.)

In its 1990 rulemaking, USEPA explained that the illicit discharge detection and elimination program requirement was intended to begin to implement the Clean Water Act's provision requiring permits to "effectively prohibit non-storm water discharges." (55 Fed.Reg. 47990, 47995.)

4. Authorized and Conditionally Exempt Non-Storm Water Discharges

The previous permit, Order No. 01-182, contained provisions exempting several categories of non-storm water discharges from the discharge prohibition, including discharges covered by a separate individual or general NPDES permit for non-storm water discharges, natural flows, flows from emergency fire fighting activity, and flows incidental to urban activities. This Order retains these same categories, but with several enhancements. Natural flows specified in this Order include natural springs and rising ground water; flows from riparian habitats and wetlands; diverted stream flows authorized by the State or Regional Water Board; and uncontaminated ground water infiltration. Flows incidental to urban activities specified in this Order include landscape irrigation; dechlorinated/debrominated swimming pool discharges; dewatering of lakes and decorative fountains; non-commercial car washing by residents or by non-profit organizations; and street/sidewalk washwater. This Order separately identifies flows from non-emergency fire fighting activities and discharges from drinking water supplier distribution systems as "essential" non-storm water discharges rather than combining them into the same category as the other non-storm water discharges incidental to urban activities. In doing so, the Regional Water Board recognizes that these discharges are essential public service discharge activities and are directly or indirectly required by other state or federal statute and/or regulation. This Order continues to unconditionally exempt emergency fire fighting discharges from the discharge prohibition.

Like Order No. 01-182, this Order contains a provision that the Regional Water Board Executive Officer may add or remove categories of exempt non-storm water discharges. In addition, in the event that any of the categories of non-storm water discharges are determined to be a source of pollutants by the Executive Officer then the discharges will no longer be exempt unless the Permittee implements conditions approved by the Executive Officer to ensure that the discharge is not a source of pollutants. Also the Executive Officer may impose additional prohibitions of non-storm water discharges in consideration of antidegradation policies and TMDLs.

5. BMPs for Non-Storm Water Discharges

In this Order, no changes have been made to the types of non-storm water discharges included in the non-storm water discharge prohibition exemptions, with one exception related to temporary discharges authorized by USEPA pursuant to sections 104(a) or 104(b) of CERCLA. However, the non-storm water discharge provisions in this Order have been reworded to clarify the requirements for addressing authorized and conditionally exempt non-storm water discharges that are not prohibited. In particular, language has been added to explicitly identify State and Regional Water Board permits that are applicable to some of the exempted non-storm water discharges. The State and Regional Water Board general permits referenced in this Order and their applicability to the different types of non-storm water discharges that are routinely discharged through the MS4 is contained in Table F-4 below.

Table F-4. State and Regional Water Board General Permits Referenced in this Permit

Order/NPDES Permit No.	Applicable Types of Discharges

Order/NPDES Permit No.	Applicable Types of Discharges
NPDES Permit No. CAG994003 – Discharges of Nonprocess Wastewater to Surface Waters in Coastal Watersheds of Los Angeles and Ventura Counties	• Ground water seepage • Uncontaminated pumped ground water • Gravity flow from foundation drains, footing drains, and crawl space pumps • Air conditioning condensate • Discharges of cleaning wastewater and filter backwash
NPDES Permit No. CAG994004 – Discharges of Groundwater from Construction and Project Dewatering to Surface Waters in Coastal Watersheds of Los Angeles and Ventura Counties	• Uncontaminated pumped ground water • Discharges from activities that occur at wellheads, such as well construction, well development (e.g., aquifer pumping tests, well purging), or major well maintenance • Gravity flow from foundation drains, footing drains, and crawl space pumps • Discharges of ground water from construction and project dewatering[6]
NPDES Permit No. CAG990002 – Discharges from Utility Vaults and Underground Structures to Surface Waters	• Uncontaminated pumped ground water • Gravity flow from foundation drains, footing drains, and crawl space pumps
NPDES Permit No. CAG674001 – Discharges From Hydrostatic Test Water to Surface Waters in Coastal Watersheds of Los Angeles and Ventura Counties	• Discharges of low threat hydrostatic test water[7]

[6] Discharges of ground water from construction and project dewatering include treated or untreated wastewater from permanent or temporary construction dewatering operations; ground water pumped as an aid in the containment and/or cleanup of a contaminant plume; ground water extracted during short-term and long-term pumping/aquifer tests; ground water generated from well drilling, construction or development and purging of wells; equipment decontamination water; subterranean seepage dewatering; incidental collected storm water from basements; and other process and non-process wastewater discharges that meet the eligibility criteria and could not be covered under another specific general NPDES permit.

[7] Low threat hydrostatic test water means discharges resulting from the hydrostatic testing or structural integrity testing of pipes, tanks, or any storage vessels using domestic water or from the repair and maintenance of pipes, tanks, or reservoirs.

Order/NPDES Permit No.	Applicable Types of Discharges
NPDES Permit No. CAG914001 – Discharges of Treated Groundwater from Investigation and/or Cleanup of Volatile Organic Compounds Contaminated-Sites to Surface Waters in Coastal Watersheds of Los Angeles and Ventura Counties	• Discharges of treated ground water from investigation and/or cleanup of volatile organic compound (VOC) contaminated sites
NPDES Permit No. CAG994005 – Discharges of Ground Water from Water Supply Wells to Surface Waters in Los Angeles and Ventura Counties	• Discharges of ground water from potable water supply wells[8]
NPDES Permit No. CAG834001 – Waste Discharge Requirements for Treated Groundwater and Other Wastewaters from Investigation and/or Cleanup of Petroleum Fuel-Contaminated Sites to Surface Waters in Coastal Watersheds of Los Angeles and Ventura Counties	• Discharges of treated ground water and other waste waters from investigation and/or cleanup of petroleum fuel contaminated sites

This Order explicitly adds another category of authorized non-storm water discharge for discharges authorized by USEPA pursuant to sections 104(a) or 104(b) of the federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). These discharges typically consist of short-term, high volume discharges resulting from the development or redevelopment of groundwater extraction wells, or USEPA or State-required compliance testing of potable water treatment plants, as part of a USEPA authorized groundwater remediation action under CERCLA. These discharges through the MS4 are only authorized if: (i) the discharge will comply with water quality standards identified as applicable or relevant and appropriate requirements ("ARARs") under section 121(d)(2) of CERCLA; or (ii) the discharge is subject to either (a) a written waiver of ARARs by USEPA pursuant to section 121(d)(4) of CERCLA or (b) a written determination by USEPA that compliance with ARARs is not practicable considering the exigencies of the situation, pursuant to 40 CFR section 300.415(j). Additionally, a decision to authorize a discharge through the MS4 to surface waters will not be made by USEPA without first conducting a comprehensive evaluation of containment, treatment, reinjection, or re-use options for the water generated from the subject wells. If a decision to discharge through the MS4 is made, USEPA's authorization of the discharge under CERCLA will require that the discharger shall:

(1) Implement BMPs to minimize the rate and duration of the discharge and remove excessive solids, and implement other on-site physical treatment where feasible.

[8] Discharges covered by this permit include ground water from potable water supply wells generated during the following activities: ground water generated during well purging for data collection purposes; ground water extracted from major well rehabilitation and redevelopment activities; and ground water generated from well drilling, construction, and development.

(2) Promote infiltration of discharged water in locations that will prevent or minimize degradation of groundwater quality.

(3) Notify the affected MS4 Permittees, including the LACFCD and the MS4 Permittee with land use authority over the discharge location, and the Regional Water Board at least one week prior to a planned discharge (unless USEPA determines in writing that exigent circumstances require a shorter notice period) and as soon as possible (but no later than 24 hours after the discharge has occurred) for unplanned discharges;

(4) Monitor any pollutants of concern in the discharge[9]; and

(5) Maintain records for all discharges greater than 100,000 gallons.[10]

In addition to requiring NPDES permit coverage for applicable categories of non-storm water discharges, this Order contains language that specifies certain conditions, including implementation of BMPs, for each category of conditionally exempt non-storm water discharge that must be met in order for the non-storm water discharge to be exempted from the non-storm water prohibition and thus allowed through the MS4.

The California Recycled Water Policy, adopted by the State Water Board in Resolution No. 2009-0011, calls for an increase in the use of recycled water from municipal wastewater sources that meet the definition in California Water Code section 13050(n), in a manner that implements state and federal water quality laws. In support of the California Recycled Water Policy, a provision has been added requiring that alternative means of disposal or opportunities for capture, reclamation, and reuse must be evaluated prior to discharging any of the non-storm water discharge categories to the MS4. In addition, to ensure the protection of receiving water quality all non-storm water discharges must be segregated from potential sources of pollutants to prevent the introduction of pollutants to the discharge.

In establishing provisions specific to different non-storm water discharge types, the Regional Water Board reviewed non-storm water discharge provisions and BMPS included in other area MS4 permits. MS4 permits reviewed included the Ventura County MS4 permit (R4-2009-0057), the Orange County MS4 permit (Order No. R9-2009-0002), the Riverside County MS4 permit (R9-2010-0016), and the San Diego County MS4 permit (R9-2007-0001). Conditions established in this permit for each of

[9] Pollutants of concern include, at a minimum, trash and debris, including organic matter, TSS, any pollutant being addressed by the groundwater remediation action under CERCLA, and any pollutant for which there is a Water Quality Based Effluent Limitation in Part VI.E applicable to discharges from the MS4 to the receiving water.

[10] Records shall be maintained, as appropriate, on the: name of CERCLA authorized discharger, date and time of notification (for planned discharges), method of notification, location of discharge, discharge pathway, receiving water, date of discharge, time of the beginning and end of the discharge, duration of the discharge, flow rate or velocity, estimated total number of gallons discharged, type of pollutant removal equipment used, type of dechlorination equipment used if applicable, type of dechlorination chemicals used if applicable, concentration of residual chlorine if applicable, type(s) of sediment controls used, and field and laboratory monitoring data. Records shall be retained for three years, unless the Regional Water Board requests a longer record retention period and shall be made available upon request by the MS4 Permittee or the Regional Water Board.

the non-storm water discharge categories ensure the protection of receiving water quality and are considered common practices.

Dischargers permitted under NPDES Permit No. CAG990002 are required to contact the appropriate Permittee(s) with jurisdiction over the MS4, including but not limited to the Los Angeles County Flood Control District, within 24 hours, whenever there is a discharge of 50,000 gallons or more from utility vaults and underground structures to the MS4.

The conditions for landscape irrigation have been split into potable and reclaimed landscape irrigation categories. As identified in the Orange County MS4 permit incidental runoff from landscape irrigation projects including over irrigation and overspray have the potential to contribute landscape derived pollutants such as bacteria, nutrients, and pesticides to receiving waters. In addition, the California Recycled Water Policy identifies the need for control of incidental runoff from landscape irrigation projects, particularly as it relates to recycled water use. The BMPs incorporated into the permit for potable landscape irrigation ensure that water is conserved, overspray and over irrigation causing incidental runoff is minimized, and exposure to landscape related pollutants is minimized.

State Water Board Water Quality Order No. 2009-0006-DWQ, General Waste Discharge Requirements for Landscape Irrigation Uses of Municipal Recycled Water, is a general permit for producers and distributors of recycled water for landscape irrigation uses. As part of this general permit, the producers and distributors of recycled water for landscape irrigation are required to develop an Operations and Maintenance Plan (O&M Plan) that includes an Operations Plan and an Irrigation Management Plan. Therefore, any reclaimed landscape irrigation discharges to the MS4 must comply with the relevant portion of the O&M Plan including the Irrigation Management Plan. By explicitly referencing the O&M requirement in this permit, it centralizes the requirements for reclaimed landscape irrigation and helps to ensure that procedures are in place for conserving water, minimizing incidental runoff, and minimizing exposure to landscape related pollutants.

Non-storm water discharge provisions have been added for the dewatering of lakes to the MS4. The provisions for the dewatering of lakes including removing and legally disposing of all visible trash on the shoreline or on the surface of the lake and the cleaning of the MS4 inlet and outlet where the water will be discharged to the receiving water have been consistently incorporated into Regional Water Board authorizations to discharge non-storm water from lakes, reservoirs, and ponds. In addition provisions for volumetrically and velocity controlling discharges as well as taking measurements to stabilize lake bottom sediments are incorporated into the provisions of this Order to ensure that turbidity in receiving waters are maintained at an acceptable level. The permit provisions for the dewatering of lakes ensure the protection of receiving water quality.

Basin plan requirements for residual chlorine have been explicitly included in the conditions for drinking water supplier distribution system releases,

dechlorinated/debrominated swimming pool/spa discharges, and dewatering of decorative fountains. Related to swimming pool discharges, discharges of cleaning wastewater and filter backwash are specifically mentioned as being allowed only if authorized under a separate NPDES permit. The Regional Water Board has a general permit for discharges of nonprocess wastewater to surface waters in coastal watersheds of Los Angeles and Ventura counties (NPDES Permit No. CAG994003) that may address discharges of cleaning wastewater and filter backwash.

Specific BMPs for discharges of swimming pools/spas and the dewatering of decorative fountains have been added to this Order including prohibiting the dewatering of swimming pools/spas or decorative fountains containing copper-based algaecides and requiring the implementation of controls to prevent introduction of pollutants prior to discharge. Swimming pool/spa discharges and decorative fountain water must be dechlorinated or debrominated using holding time, aeration, and/or sodium thiosulfate and if necessary shall be pH adjusted to within the range of 6.5 and 8.5. The MS4 inlet and outlet must be inspected and cleaned out immediately prior to discharge to protect receiving water quality. In addition provisions for volumetrically and velocity controlling discharges are incorporated into the provisions of this Order to ensure that turbidity in receiving waters are maintained at an acceptable level.

In addition to the specific inclusion of Basin Plan water quality objectives for residual chlorine, this Order allows discharges of drinking water supplier distribution system releases as long as specified BMPs are implemented. BMPs must be implemented to prevent introduction of pollutants to drinking water supplier distribution system releases prior to discharge to the receiving water. BMPs must be consistent with the American Water Works Association (California – Nevada Section) BMP Manual for Drinking Water System Releases and other applicable guidelines. Similar to discharges of swimming pools/spas and dewatering of decorative fountains, drinking water supplier distribution system releases must be dechlorinated or debrominated using holding time, aeration, and/or sodium thiosulfate and if necessary shall be pH adjusted to within the range of 6.5 and 8.5. The MS4 inlet and outlet must be inspected and cleaned out immediately prior to discharge to protect receiving water quality. BMPs such as sand bags or gravel bags, or other appropriate means shall be utilized to prevent sediment transport and all sediment shall be collected and disposed of in a legal and appropriate manner. In addition provisions for volumetrically and velocity controlling discharges are incorporated into the provisions of this Order to ensure that turbidity in receiving waters are maintained at an acceptable level.

The permit provisions for drinking water supply and distribution system releases, dechlorinated/debrominated swimming pool/spa discharges, and dewatering of decorative fountains ensures the protection of receiving water quality.

The Regional Water Board evaluated and established a list of approved BMPs for various programs and activities through Regional Water Board Resolution 98-08 that serves as appropriate BMPs for inclusion in the Discharger and Permittees' regulatory programs. Requirements for street/sidewalk wash water contained in

Resolution 98-08 have also been explicitly incorporated into this Order. The inclusion of the requirements contained in Resolution 98-08 helps to ensure that Permittees are aware of the requirements and ensures the protection of receiving water quality.

Specific BMPs for discharges from non-commercial car washing have been incorporated into this Order to prevent the introduction of pollutants prior to discharge. BMPs that must be implemented for the discharge of non-commercial vehicle wash water include minimizing the amount of water used by turning off nozzles or kinking the hose when not spraying a vehicle and by using a pressure washer; using biodegradable, phosphate free detergents and non-toxic cleaning products; where possible, washing vehicles on permeable surfaces where wash water can percolate into the ground; creating a temporary berm or block off the storm drains; using pumps or vacuums to direct water to pervious areas; and emptying buckets of soapy water or rinse water into the sanitary sewer system. These BMPs are common practice and ensure the protection of receiving water quality.

The inclusion of conditions for flows related to non-emergency fire-fighting activities is new to this iteration of the permit. Conditions for discharges related to fire fighting activities have been incorporated into other MS4 permits including both Orange County and Riverside County. Flows resulting from emergency fire fighting activities necessary for the protection of life or property do not require implementation of specific BMPs.

The specific BMPs for discharges associated with non-emergency fire fighting activities that have been incorporated into this Order have been incorporated into other California MS4 permits. Both the Riverside County and Orange County MS4 permits require the development and implementation of a program to address pollutants from non-emergency fire fighting flows. Rather than develop a program to address non-emergency fire fighting flows, common BMPs used in association with non-emergency fire fighting discharges have been incorporated into this Order. Guidance on BMPs contained in this Order for non-emergency fire fighting activities is available in the Best Management Practices Plan for Urban Runoff Management for Participating Riverside County Fire Fighting Agencies.

The inclusion of specific conditions for exempted non-storm water discharges in this Order centralizes the requirements for non-storm water discharges. Conditions established in this permit for each of the conditionally exempt non-storm water discharge categories are common practice and have been incorporated into other area MS4 permits.

6. Permittee Requirements for Non-Storm Water Discharges

This Order includes specific requirements for Permittees related to more targeted screening of MS4 outfalls for non-storm water discharges, and monitoring and evaluation of significant non-storm water discharges. Permittees are required to develop and implement procedures to ensure that all conditions required for

conditionally exempt non-storm water discharges are being implemented. These requirements also help to clarify the responsibilities of the Permittees versus the responsibilities of the non-MS4 Permittee dischargers to the MS4. The development and implementation of these procedures helps to ensure compliance with the non-storm water discharge prohibition and ensure that the non-storm water discharges are not sources of pollutants.

B. Technology-Based Effluent Limitations

Section 301(b)(1)(A) of the CWA and 40 CFR section 122.44(a) require that NPDES permits include technology based effluent limitations.[11] In 1987, the CWA was amended to require that municipal storm water discharges "reduce the discharge of pollutants to the maximum extent practicable." (CWA § 402(p)(3)(B)(iii).) The "maximum extent practicable" (MEP) standard is the applicable federal technology based standard that MS4 owners and operators must attain to comply with their NPDES permits.[12] The corresponding regulatory provisions that further detail the MEP standard can be found in 40 CFR sections 122.26(d)(2)(iv) and 122.44(k)(2).

Neither Congress nor the USEPA has specifically defined the term "maximum extent practicable." Rather, the MEP standard is a flexible and evolving standard. Congress established this flexible MEP standard so that administrative bodies would have "the tools to meet the fundamental goals of the Clean Water Act in the context of storm water pollution."[13] This standard was designed to allow permit writers flexibility to tailor permits to the site-specific nature of MS4s and to use a combination of pollution controls that may be different in different permits.[14] The MEP standard is also expected to evolve in light of programmatic improvements, new source control initiatives, and technological advances that serve to improve the overall effectiveness of storm water management programs in reducing pollutant loading to receiving waters. This is consistent with USEPA's interpretation of storm water management programs. As explained by USEPA in its 1990 rulemaking, "EPA anticipates that storm water management programs will evolve and mature over time" (55 Fed.Reg. 47990, 48052 (Nov. 16, 1990)). There is ample evidence of this evolution in storm water management. Two local examples include the development of full capture trash control devices in response to the Los Angeles Region Trash TMDLs, and the development of innovative media filters for use in outfalls at the Boeing Santa Susana Field Laboratory that have potential municipal applications.

To provide clarification to the Regional Water Boards, the State Water Board's Office of Chief Counsel issued a memorandum dated February 11, 1993 regarding the "Definition of 'Maximum Extent Practicable'". In the memorandum, the State Water Board interpreted the MEP standard to entail "a serious attempt to comply," and that under the

[11] A technology based effluent limitation is based on the capability of a model treatment method to reduce a pollutant to a certain concentration (NPDES Permit Writer's Manual, Appendix A). Technology based requirements represent the minimum level of control that must be imposed in a permit issued under CWA § 402.

[12] Note that the MEP standard only applies to storm water discharges from the MS4. Non-storm water discharges are subject to a different standard – specifically, non-storm water discharges through the MS4 must be effectively prohibited.

[13] Building Industry Ass'n of San Diego County v. State Water Resources Control Board (2004) 124 Cal.App.4th 866, 884.

[14] In re City of Irving, Texas, Municipal Storm Sewer System, (July 16, 2001), 10 E.A.D. 111 (E.P.A.), *6.

MEP standard, "practical solutions may not be lightly rejected." The memorandum states, "[i]n selecting BMPs which will achieve MEP, it is important to remember that municipalities will be responsible to reduce the discharge of pollutants in storm water to *the maximum extent practicable*. This means choosing effective BMPs, and rejecting applicable BMPs only where other effective BMPs will serve the same purpose, the BMPs would not be technically feasible, or the cost would be prohibitive." The memorandum further states that, "[a]fter selecting a menu of BMPs, it is of course the responsibility of the discharger to insure that all BMPs are implemented."

This Order includes programmatic requirements in six areas pursuant to 40 CFR section 122.26(d)(2)(iv) as well as numeric design standards for storm water runoff from new development and redevelopment consistent with the federal MEP standard (see State Water Board Order WQ 2000-11, the "LA SUSMP Order"). This Order also includes protocols for periodically evaluating and modifying or adding control measures, consistent with the concept that MEP is an evolving and flexible standard.

This Order also provides for the use of municipal action levels ("MALs") derived from the National Stormwater Quality Database (NSQD), as a means of evaluating the overall effectiveness of a Permittee's storm water management program in reducing pollutant loads from a particular drainage area and in order to assess compliance with the MEP standard. Finally, this Order includes BMP Performance Standards derived from the International BMP Database as a guide for BMP selection and design, and as a tool for evaluating the effectiveness of individual post-construction BMPs in reducing pollutant loads and assessing compliance with the MEP standard. USEPA recommends the use of numeric benchmarks for BMPs to estimate BMP effectiveness and as triggers for taking additional actions such as evaluating the effectiveness of individual BMPs, implementing and/or modifying BMPs, or providing additional measures to protect water quality.[15]

C. Water Quality-Based Effluent Limitations (WQBELs)

In addition to requiring that MS4 permits include technology based requirements consistent with the MEP standard, section 402(p)(3)(B)(iii) of the CWA authorizes the inclusion of "such other provisions as the Administrator or the State determines appropriate for the control of [] pollutants."[16] This requirement gives USEPA or the State permitting authority discretion to determine what permit conditions are necessary to control pollutants. Generally, permit requirements designed to achieve water quality standards are referred to as water quality based effluent limitations (WQBELs). A WQBEL is a restriction on the quantity or concentration of a pollutant that may be discharged from a point source into a receiving water that is necessary to achieve an

[15] See USEPA November 22, 2002 memorandum, "Establishing Total Maximum Daily Load (TMDL) Wasteload Allocations (WLAs) for Storm Water Sources and NPDES Permit Requirements Based on Those WLAs."

[16] The first and second iterations of the Los Angeles County MS4 Permit relied solely upon requirements consistent with the MEP standard to work toward achieving water quality standards. Note that the MEP standard is distinct from a water quality based standard; each has a different basis. Therefore, while from a practical point of view, the goal of all MS4 permit conditions is to control pollutants in discharges to ultimately achieve certain water quality outcomes, water quality based standards are directly derived from this desired outcome, while the MEP standard is anticipated to be a way of working toward the desired outcome, but is not directly derived from it.

applicable water quality standard in the receiving water.[17] WQBELs may be expressed narratively or numerically.

In its Phase I Stormwater Regulations, Final Rule, USEPA elaborated on these requirements, stating that, "permits for discharges from municipal separate storm sewer systems must require controls to reduce the discharge of pollutants to the maximum extent practicable, and where necessary water quality-based controls" (see 55 Fed.Reg. 47990, 47994 (Nov. 16, 1990). In December 1999, USEPA reiterated in its Phase II Stormwater Regulations, Final Rule that MS4 "permit conditions must provide for attainment of applicable water quality standards (including designated uses), allocations of pollutant loads established by a TMDL, and timing requirements for implementation of a TMDL."[18] The State Water Board has affirmed that MS4 permits must include requirements necessary to achieve compliance with the applicable technology based standard of MEP and to achieve water quality standards.[19]

WQBELs are required for point source discharges that have the reasonable potential to cause or contribute to an excursion of water quality standards and technology based effluent limitations or standards are not sufficient to achieve water quality standards.[20]

The State Water Board has previously concluded that sole reliance in MS4 permits on BMP based requirements is not sufficient to ensure attainment of water quality standards. (See State Water Board Order 2001-015). The Regional Water Board concurs with this conclusion. This conclusion is amply supported by Regional Water Board and USEPA established TMDLs for impaired waters in the Los Angeles Region, indicating that MS4 discharges are a continuing source of pollutants to the impaired receiving waters notwithstanding the implementation of storm water management programs that have been driven by the MEP standard by Permittees for the last two decades.

In this Order, WQBELs are included where the Regional Water Board has determined that discharges from the MS4 have the reasonable potential to cause or contribute to an excursion above water quality standards.[21] Reasonable potential can be demonstrated in several ways, one of which is through the TMDL development process. Where a point source is assigned a WLA in a TMDL, the analysis conducted in the development of the TMDL provides the basis for the Regional Water Board's determination that the discharge has the reasonable potential to cause or contribute to an exceedance of water quality standards in the receiving water. This approach is affirmed in USEPA's Permit Writer's Manual, which states, "[w]here there is a pollutant with a WLA from a TMDL, a permit writer must develop WQBELs." Therefore, WQBELs are included in this Order for all pollutants for which a WLA is assigned to MS4 discharges.

[17] See 40 CFR § 122.2; NPDES Permit Writer's Manual, Appendix A. A WQBEL is distinguished from a technology based effluent limitation (TBEL) in that the basis for the WQBEL is the applicable water quality standard for the receiving water, while the basis for the TBEL is generally the performance of the best available technology.
[18] *See, e.g.,* Phase II Stormwater Regulations, Final Rule, 64 Fed. Reg. 68722, 68737.
[19] See, e.g., State Water Board Orders WQ 99-05 and 2001-15.
[20] 40 CFR §§ 122.44(d)(1)(i); 122.44(d)(1)(iii)
[21] 40 CFR §§ 122.44(d)(1)(i)-(iii); 122.44(d)(1)(vii)(B)

Federal regulations further require that, "when developing water quality-based effluent limits…the permitting authority shall ensure that effluent limits … are consistent with the assumptions and requirements of any available wasteload allocation for the discharge…" (40 CFR § 122.44(d)(1)(vii)(B)).

The Regional Water Board interprets this to mean that the final WQBEL must be expressed in similar terms as the underlying WLA; for example, where a TMDL includes WLAs for MS4 discharges that provide numeric pollutant load objectives, the WLA should be translated into numeric WQBELs in the permit, and at a level to achieve the same expected water quality outcome. USEPA also recommends the use of numeric WQBELs to meet water quality standards where MS4 discharges have the reasonable potential to cause or contribute to a water quality standard excursion. Numeric WQBELs will help clarify MS4 permit requirements and improve accountability in this permit term.

While BMPs[22] are central to MS4 permits, permit requirements may only rely upon BMP based limitations in lieu of water quality based effluent limitations if: (1) the BMPs are adequate to achieve water quality standards, and (2) numeric effluent limitations are infeasible.[23] As discussed earlier, the State and Regional Water Boards have concluded that sole reliance on MEP based permit requirements is not sufficient to ensure the achievement of water quality standards. Further, there is insufficient data and information available at this time on the prospective implementation of BMPs throughout Los Angeles County to provide the Regional Water Board reasonable assurance that the BMPs would be sufficient to achieve the WQBELs.[24]

Regarding the feasibility of numeric effluent limitations, the Regional Water Board concludes that numeric WQBELs are feasible. While a lack of data may have hampered the development of numeric effluent limitations for MS4 discharges in earlier permit cycles, in the last decade, 33 TMDLs have been developed for water bodies in Los Angeles County in which WLAs are assigned to MS4 discharges. In each case, part of the development process entailed analyzing pollutant sources and allocating loads using empirical relationships or modeling approaches. As a result, it is possible to use these numeric WLAs to derive numeric WQBELs for MS4 discharges. USEPA has also acknowledged that its expectations regarding the application of numeric WQBELs to municipal storm water discharges have changed as the storm water permit program has continued to mature over the last decade.[25]

---

[22] Note that best management practices and effluent limitations are two different types of permit requirements (see 40 CFR §§ 122.2; 122.44(k), which distinguish the two terms and describe their relationship to each other).

[23] 40 CFR §§ 122.44(d)(1); 122.44(k)(3); see also State Water Board Order 91-03; Memorandum from Elizabeth Miller Jennings, Office of Chief Counsel to Bruce Fujimoto, Division of Water Quality, "Municipal Storm Water Permits: Compliance with Water Quality Objectives," October 3, 1995.

[24] USEPA states in its 2002 memorandum, "Establishing Total Maximum Daily Load (TMDL) Wasteload Allocations (WLAs) for Storm Water Sources and NPDES Permit Requirements Based on Those WLAs" that, "[w]hen a non-numeric water quality-based effluent limit is imposed, the permit's administrative record, including the fact sheet when one is required, needs to support that the BMPs are expected to be sufficient to implement the WLA in the TMDL," citing 40 CFR §§ 124.8, 124.9, and 124.18. See also USEPA's 2010 memorandum revising the 2002 memorandum.

[25] See USEPA 2010 memorandum, "Revisions to the November 22, 2002 Memorandum 'Establishing Total Maximum Daily Load (TMDL) Wasteload Allocations (WLAs) for Storm Water Sources and NPDES Permit Requirements Based on Those WLAs'" in which USEPA states, "where the NPDES permitting authority determines that MS4 discharges…have the reasonable potential to cause or contribute to water quality standards excursions, permit for MS4s…should contain numeric effluent limitations where feasible to do so." USEPA further states, "[w]here the TMDL includes WLAs for

The inclusion of numeric WQBELs is also consistent with the Ninth Circuit Court of Appeal's ruling in *Defenders of Wildlife v. Browner* (191 F.3d 1159, 1166 (1999)) that the permitting authority has discretion regarding the nature and timing of requirements that it includes as MS4 permit conditions to attain water quality standards, and that these requirements may include numeric effluent limitations.

Further, given the variability in implementation of storm water management programs across Permittees, numeric WQBELs create an objective, equitable and accountable means of controlling MS4 discharges, while providing the flexibility for Permittees to comply with the WQBELs in any lawful manner.

D. Final Effluent Limitations

Final WQBELs are included in this Order based on the final WLAs assigned to discharges from the Los Angeles County MS4 in all available TMDLs.

MS4 permits can include compliance schedules for achieving final WQBELs derived from TMDL WLAs, so long as the compliance schedule is consistent with a TMDL implementation plan adopted by the Regional Water Board and approved through the State's basin plan amendment process. If a compliance schedule exceeds one year, it must include interim requirements pursuant to 40 CFR section 122.47.

Section 402(o) of the CWA and 40 CFR section 122.44(l) require that effluent limitations in reissued orders be at least as stringent as those in the existing order. This Order carries over the final receiving water limitations and WQBELs that were included to implement the Marina del Rey Harbor Back Basins and Mothers' Beach Bacteria TMDL and the Los Angeles River Trash TMDL, respectively, in the 2007 and 2009 amendments to Order No. 01-182.

E. Interim Effluent Limitations

Where there is a TMDL implementation plan adopted by the Regional Water Board and approved through the State's basin plan amendment process, interim WQBELs are included in this Order based on interim WLAs established for MS4 discharges.

V. RATIONALE FOR RECEIVING WATER LIMITATIONS

A. Receiving Water Limitations

Receiving water limitations are included in all NPDES permits issued pursuant to CWA section 402. Section 402(p)(3)(B)(iii) of the CWA authorizes the inclusion of "such other provisions as the Administrator or the State determines appropriate for the control of [] pollutants." This requirement gives USEPA or the State permitting authority discretion to determine what permit conditions are necessary to control pollutants. In its Phase I Stormwater Regulations, Final Rule, USEPA elaborated on these requirements, stating that, "permits for discharges from municipal separate storm sewer systems must require controls to reduce the discharge of pollutants to the maximum extent practicable, and

stormwater sources that provide numeric pollutant load…objectives, the WLA should, where feasible, be translated into numeric WQBELs in the applicable stormwater permits."

where necessary water quality-based controls" (see 55 Fed. Reg. 47990, 47994 (Nov. 16, 1990)). USEPA reiterated in its Phase II Stormwater Regulations, Final Rule, that MS4 "permit conditions must provide for attainment of applicable water quality standards (including designated uses), allocations of pollutant loads established by a TMDL, and timing requirements for implementation of a TMDL."[26] USEPA Region IX has also affirmed the agency's position that MS4 discharges must meet water quality standards in a series of comment letters on MS4 permits issued by various California regional water boards.[27] California Water Code section 13377 also requires that NPDES permits include limitations necessary to implement water quality control plans. Both the State Water Board and Regional Water Board have previously concluded that discharges from the MS4 contain pollutants that have the reasonable potential to cause or contribute to excursion above water quality standards. As such, inclusion of receiving water limitations is appropriate to control MS4 discharges.

The inclusion of receiving water limitations is also consistent with the Ninth Circuit Court of Appeal's ruling in *Defenders of Wildlife v. Browner* (191 F.3d 1159, 1166 (1999)) that the permitting authority has discretion regarding the nature and timing of requirements that it includes as MS4 permit conditions to attain water quality standards.

The Ninth Circuit Court of Appeals recently explained that, "[w]ater quality standards are used as a supplementary basis for effluent limitations [guidelines] so that numerous dischargers, despite their individual compliance with technology based effluent limitations, can be regulated to prevent water quality from falling below acceptable levels" (*NRDC v. County of Los Angeles* (2011) 673 F.3d 880, 886). Receiving water limitations are included in this Order to ensure that individual and collective discharges from the MS4 do not cause or contribute to exceedances of water quality standards necessary to protect the beneficial uses of the receiving waters.

The receiving water limitations in this Order consist of all applicable numeric or narrative water quality objectives or criteria, or limitations to implement the applicable water quality objectives or criteria, for receiving waters as contained in Chapters 3 and 7 of the Basin Plan, or in water quality control plans or policies adopted by the State Water Resources Control Board, including Resolution No. 68-16, or in federal regulations, including but not limited to, 40 CFR sections 131.12 and 131.38. The water quality objectives in the Basin Plan and other State Water Board plans and policies have been approved by USEPA and combined with the designated beneficial uses constitute the water quality standards required under federal law.

The receiving water limitations provisions in this Order are the same as those included in the previous Los Angeles County MS4 Permit provisions, and are based on precedential State Water Board Orders WQ 98-01 and WQ 99-05. This Order includes three main provisions related to receiving water limitations. First, consistent with CWA section 402(p)(B)(3)(iii) and 40 CFR section 122.44(d)(1), it includes a provision stating that discharges from the MS4 that cause or contribute to an exceedance of receiving water limitations are prohibited. This is also in accord with the State Water Board's

[26] *See, e.g.,* Phase II Stormwater Regulations, Final Rule, 64 Fed. Reg. 68722, 68737.
[27] See, e.g., letter from Alexis Strauss, Acting Director, Water Division, USEPA Region IX, to Walt Pettit, Executive Director, State Water Board, re: SWRCB/OCC File A-1041 for Orange County, dated January 21, 1998.

finding in Order WQ 98-01 ("The [State Water Board] agrees that the NPDES permit must prohibit discharges that "cause" or "contribute" to violations of water quality standards."). Second, it includes a provision stating that discharges from the MS4 of stormwater or non-stormwater, for which a Permittee is responsible, shall not cause or contribute to a condition of nuisance.[28]

Third, it includes a provision that states that Permittees shall achieve these two prohibitions "through timely implementation of control measures and other actions to reduce pollutants in the discharges in accordance with the storm water management program and its components and other requirements of this Order including any modifications." This third provision elucidates the process by which Permittees are expected to achieve the first two provisions and then outlines the so-called "iterative process" whereby certain actions are required when exceedances of receiving water limitations occur and discharges from the MS4 are implicated. This iterative process includes submitting a Receiving Water Limitations Compliance Report; revising the storm water management program and its components to include additional BMPs, an implementation schedule and additional monitoring to address the exceedances; and implementing the revised storm water management program. The inclusion of this protocol for estimating BMP effectiveness and taking additional actions such as implementing additional BMPs and/or modifying BMPs to improve their effectiveness when monitoring demonstrates that they are necessary to protect water quality is consistent with USEPA's expectations for MS4 permits.[29]

The State and Regional Water Boards have stated that each of the three provisions are independently applicable, meaning that compliance with one provision does not provide a "safe harbor" where there is non-compliance with another provision (i.e., compliance with the third provision does not shield a Permittee who may have violated the first or second provision from an enforcement action). Rather, the third provision is intended to ensure that the necessary storm water management programs and controls are in place, and that they are modified by Permittees in a timely fashion when necessary, so that the first two provisions are achieved as soon as possible. USEPA expressed the importance of this independent applicability in a series of comment letters on MS4 permits proposed by various regional water boards. At that time, USEPA expressly objected to certain MS4 permits that included language stating, "permittees will not be in violation of this [receiving water limitation] provision …" (if certain steps are taken to evaluate and improve the effectiveness of the Drainage Area Management Plan (DAMP)), concluding that this phrase would not comply with the CWA.[30]

The Receiving Water Limitations provisions of Order No. 01-182 have been litigated twice, and in both cases the courts have upheld the language and the State and Regional Water Board's interpretation of it. Both courts ruled that the first two provisions

[28] Wat. Code, § 13377 ("the state board or the regional boards shall . . . issue waste discharge requirements and dredged or fill material permits which apply and ensure compliance with all applicable provisions of the [CWA], thereto, together with any more stringent effluent standards or limitations necessary to implement waste quality control plans, or for the protection of beneficial uses, or to prevent nuisance").

[29] See, e.g., USEPA 2002 memorandum, "Establishing Total Maximum Daily Load (TMDL) Wasteload Allocations (WLAs) for Storm Water Sources and NPDES Permit Requirements Based on Those WLAs."

[30] See note 20.

are independently applicable from the third provision that establishes the "iterative process" requirements and no "safe harbor" exists.

The provisions were first litigated in 2005 where the Los Angeles County Superior Court stated, "In sum, the Regional [Water] Board acted within its authority when it included Parts 2.1 and 2.2 in the Permit without a 'safe harbor,' whether or not compliance therewith requires efforts that exceed the 'MEP' standard." (*In re L.A. Cnty. Mun. Storm Water Permit Litig.* (L.A. Super. Ct., No. BS 080548, Mar. 24, 2005) Statement of Decision from Phase I Trial on Petitions for Writ of Mandate, pp. 4-5, 7.).

The provisions were again litigated in 2011. In that case, the Ninth Circuit Court of Appeal in *NRDC v. County of Los Angeles* (673 F.3d 880, 886) affirmed that the iterative process (in Part 2.3 of the 2001 Order) does not "forgive" violations of the discharge prohibitions (in Parts 2.1 and 2.2 of the 2001 Order). The court acknowledged that Part 2.3 clarifies that Parts 2 and 3 interact, but the court concluded that Part 2.3 "offers no textual support for the proposition that compliance with certain provisions shall forgive non-compliance with the discharge prohibitions." The Ninth Circuit further concluded that, "[a]s opposed to absolving noncompliance or exclusively adopting the MEP standard, the iterative process ensures that if water quality standards 'persist,' despite prior abatement efforts, a process will commence whereby a responsible Permittee amends its SQMP. Given that Part 3 of the [2001] Permit states that SQMP implementation is the 'minimum' required of each Permittee, the discharge prohibitions serve as additional requirements that operate as enforceable water-quality-based performance standards required by the Regional Board."

Nonetheless, the Regional Water Board is in a unique position to be able to offer multiple paths to compliance with receiving water limitations in this MS4 permit. The Regional Board has worked closely with the US EPA in implementing the requirements of the 1999 consent decree between EPA and the environmental groups. The requirements of the consent decree are nearly complete and 33 of these TMDLs addressing hundreds of waterbody-pollutant combinations covering every coastal watershed in Los Angeles County will be implemented in this Order. The number of TMDLs, and hundreds of water quality issues that the TMDLs address, is unprecedented anywhere else in California. These extensive and enforceable implementation programs for addressing myriad water quality issues throughout the County, coupled with more robust core provision requirements, and commitments to implement watershed solutions to address all impairments in regional waters, allows this Board to consider the compliance mechanisms described below. These compliance mechanisms provide an incentive and robust framework for Permittees to craft comprehensive pathways to achieve compliance with receiving water limitations – both those addressed by TMDLs and those not addressed by TMDLs. This compliance mechanism is contingent upon participating Permittees being in full compliance with all requirements articulated in the permit and approved Watershed Management Program or EWMP in order to take advantage of these provisions.

This Order includes requirements in Part VI.E of this Order to implement WLAs assigned to MS4 discharges from 33 TMDLs. Those TMDLs adopted through the State's basin planning process include programs of implementation pursuant to

California Water Code section 13242, including implementation schedules, for attaining water quality standards. The TMDL provisions in Part VI.E and attachments include compliance schedules for TMDLs adopted by the Regional Water Board consistent with the TMDL implementation schedule to achieve the final receiving water limitations. The Regional Water Board recognizes that, in the case of impaired waters subject to a TMDL, the permit's receiving water limitations for the pollutants addressed by the TMDL may be exceeded during the period of TMDL implementation. Therefore, this Order provides, in Part VI.E.2.c, that a Permittee's full compliance with the applicable TMDL requirements pursuant to the compliance schedules in this Order constitutes a Permittee's compliance with the receiving water limitations provisions in Part V.A. of this Order for the particular pollutant addressed by the TMDL.

For water body-pollutant combinations not addressed by a TMDL, the Regional Water Board has included provisions in Part VI.C. to allow Permittees to develop a Watershed Management Program or EWMP to address receiving water limitations not otherwise addressed by a TMDL. The Watershed Management Program must include a Reasonable Assurance Analysis (RAA) that is quantitative and performed using a peer-reviewed model in the public domain. Models to be considered for the RAA, without exclusion, are the Watershed Management Modeling System (WMMS), Hydrologic Simulation Program-FORTRAN (HSPF), and the Structural BMP Prioritization and Analysis Tool (SBPAT). The RAA shall commence with assembly of all available, relevant subwatershed data collected within the last 10 years, including land use and pollutant loading data, establishment of quality assurance/quality control (QA/QC) criteria, QA/QC checks of the data, and identification of the data set meeting the criteria for use in the analysis. Data on performance of watershed control measures needed as model input shall be drawn only from peer-reviewed sources. These data shall be statistically analyzed to determine the best estimate of performance and the confidence limits on that estimate for the pollutants to be evaluated. The objective of the RAA shall be to demonstrate the ability of Watershed Management Programs and enhanced Watershed Management Programs (where retention of the 85th percentile, 24-hour event is not technically feasible) to ensure that Permittees' MS4 discharges achieve applicable water quality based effluent limitations and do not cause or contribute to exceedances of receiving water limitations.

A Permittee's full compliance with all requirements and dates for their achievement in an approved Watershed Management Program or enhanced Watershed Management Program constitutes compliance with the receiving water limitations provisions in Part V.A. of the Order for the specific water body-pollutant combinations addressed by an approved Watershed Management Program or enhanced Watershed Management Program. However, if a Permittee fails to meet any requirement or date for its achievement beginning with notification of a Permittee's intent to develop a Watershed Management Program or EWMP, and continuing with implementation of an approved Watershed Management Program or enhanced Watershed Management Program, the Permittee is subject to the provisions of Part V.A. for the waterbody-pollutant combination(s) that were to be addressed by the requirement. Permittees that do not elect to develop a Watershed Management Program or EWMP are required to demonstrate compliance with receiving water limitations pursuant to Part V.A.

VI. RATIONALE FOR PROVISIONS

A. Standard Provisions

Standard Provisions, which apply to all NPDES permits in accordance with 40 CFR section 122.41, and additional conditions applicable to specified categories of permits in accordance with 40 CFR section 122.42, are provided in Attachment D. Dischargers must comply with all standard provisions and with those additional conditions that are applicable under 40 CFR section 122.42.

B. Watershed Management Programs

The purpose of the Watershed Management Programs is to provide a framework for Permittees to implement the requirements of this Order in an integrated and collaborative fashion to address water quality priorities on a watershed scale, including complying with the requirements of Part V.A. (Receiving Water Limitations), Part VI.E (Total Maximum Daily Load Provisions) and Attachments L through R, by customizing the control measures in Parts III.A.4 (Prohibitions – Non-Storm Water Discharges) and VI.D (Minimum Control Measures). This watershed management paradigm is consistent with federal regulations that support the development of permit conditions, as well as the implementation of storm water management programs, at a watershed scale (40 CFR §§ 122.26(a)(3)(ii), 122.26(a)(3)(v), and 122.26(d)(2)(iv)). USEPA later issued a Watershed-Based NPDES Permitting Policy Statement (USEPA, 2003) that defines watershed-based permitting as an approach that produces NPDES permits that are issued to point sources on a geographic or watershed basis. In this policy statement, USEPA explains that, "[t]he utility of this tool relies heavily on a detailed, integrated, and inclusive watershed planning process." USEPA identifies a number of important benefits of watershed permitting, including more environmentally effective results; the ability to emphasize measuring the effectiveness of targeted actions on improvements in water quality; reduced cost of improving the quality of the nation's waters; and more effective implementation of watershed plans, including TMDLs, among others.

There are several reasons for this shift in emphasis from Order No. 01-182. A watershed based structure for permit implementation is consistent with TMDLs developed by the Los Angeles Water Board and USEPA, which are established at a watershed or subwatershed scale and are a prominent new part of this Order. Many of the Permittees regulated by this Order have already begun collaborating on a watershed scale to develop monitoring and implementation plans required by TMDLs. Additionally, a watershed based structure comports with the recent amendment to the Los Angeles County Flood Control Act (Assembly Bill 2554 in 2010), which allows the LACFCD to assess a parcel tax for storm water and clean water programs. Funding is subject to voter approval in accordance with Proposition 218. Fifty percent of funding is allocated to nine "watershed authority groups" to implement collaborative water quality improvement plans.

An emphasis on watersheds is appropriate at this stage in the region's MS4 program to shift the focus of the Permittees from rote program development and implementation to more targeted, water quality driven planning and implementation. Addressing MS4

discharges on a watershed scale focuses on water quality results by emphasizing the receiving waters within the watershed. The conditions of the receiving waters drive management actions, which in turn focus on the measures to address pollutant contributions from MS4 discharges.

The ultimate goal of the Watershed Management Programs is to ensure that discharges from the Los Angeles County MS4: (i) achieve applicable WQBELs that implement TMDLs, (ii) do not cause or contribute to exceedances of receiving water limitations, and (iii) for non-storm water discharges from the MS4, are not a source of pollutants to receiving waters.

After more than 20 years of program implementation, it is critical that the Permittees design and implement their programs based on their improved knowledge of storm water and its impacts on local receiving waters and by employing BMPs and other control measures that have been developed and refined over the past two decades. The Watershed Management Programs are driven by strategic planning and implementation, which will ultimately result in more cost effective implementation. The Watershed Management Programs will provide permittees with the flexibility to prioritize and customize control measures to address the water quality issues specific to the watershed management area (WMA), consistent with federal regulations (40 CFR § 122.26(d)(2)(iv)).

Focusing on watershed implementation does not mean that the Permittees must expend funds outside of their jurisdictions. Rather, the Permittees within each watershed are expected to collaborate to develop a watershed strategy to address the high priority water quality problems within each watershed. They have the option of implementing the strategy in the manner they find to be most effective. Each Permittee can implement the strategy individually within its jurisdiction, or the Permittees can group together to implement the strategy throughout the watershed.

While this Order includes a new emphasis on addressing MS4 discharges on a watershed basis, this Order includes recognition of the importance of continued program implementation on jurisdictional levels. This Order also acknowledges that jurisdictional and watershed efforts may be integrated to achieve water quality outcomes.

In this Order, the watershed requirements serve as the mechanism for this program integration. Since jurisdictional activities also serve watershed purposes, such activities can be integrated into the Permittees' watershed management programs. Such opportunities for program integration inherently provide flexibility to the Permittees in implementing their programs. Program integration can be expanded or minimized as the Permittees see fit. Some Permittees may opt to continue jurisdiction-specific implementation for certain programs, while for other program areas more collaborative watershed scale implementation may be more effective. Permittees identify individual roles and responsibilities as part of the Watershed Management Program Plan.

Permittees can customize the BMPs to be implemented, or required to be implemented, for development, construction, and existing development areas. Flexibility to determine

which industrial or commercial sites are to be inspected is also provided to the Permittees. Educational approaches are also to be determined by the Permittees under this Order. Significant leeway is also provided to the Permittees in using methods to assess the effectiveness of their various runoff management programs. This flexibility is further extended to the monitoring program requirements, which allow the Permittees to develop monitoring approaches to several aspects of the monitoring program.

The challenge in drafting this Order is to provide the flexibility described above, while ensuring that this Order provides baseline requirements and is still enforceable. To achieve this, this Order frequently prescribes baseline or default requirements, such as for each of the six "minimum control measures" within a Permittee's baseline storm water management program, while providing the Permittees with flexibility to propose customized actions as part of their watershed management program.

Permittees that elect to develop a Watershed Management Program must submit a "Notice of Intent" to the Regional Water Board no later than six months after the effective date of this Order. The Notice of Intent must be signed by all Permittees electing to participate in the Watershed Management Program for the Watershed Management Area. Permittees that do not elect to develop a Watershed Management Program are subject to the baseline storm water management program requirements in this Order and must demonstrate compliance with applicable WQBELs through monitoring data collected from the Permittee's outfall(s).

Permittees electing to develop a Watershed Management Program must submit a draft plan for approval by the Regional Water Board or by the Executive Officer on behalf of the Regional Water Board no later than one year after the effective date of the Order, or if certain conditions are met, no later than 18 months or 30 months after the effective date of the Order. To encourage stakeholder involvement in the development of the Watershed Management Programs, the Order requires that the Permittees form a permit-wide technical advisory committee (TAC) that will advise and participate in the development of the Watershed Management Programs. The TAC must include at least one public representative from a non-governmental organization with public membership. Additionally, the Order requires that the draft Watershed Management Programs are made available for public review prior to approval by the Regional Water Board or Executive Officer on behalf of the Regional Water Board.

Each Watershed Management Program must:

1. Prioritize water quality issues resulting from storm water and non-storm water discharges to the MS4 and from the MS4 to receiving waters within each Watershed Management Area,
2. Identify and implement strategies, control measures, and BMPs to achieve applicable water quality based effluent limitations and/or receiving water limitations, consistent with applicable compliance schedules in this Order,
3. Execute an integrated monitoring and assessment program to determine progress towards achieving applicable limitations, and
4. Modify strategies, control measures, and BMPs as necessary based on analysis of monitoring data collected pursuant to the MRP to ensure that applicable water

quality-based effluent limitations and receiving water limitations and other milestones set forth in the Watershed Management Program will be achieved.

Watershed Management Programs must be developed using the Regional Water Board's Watershed Management Areas (see Attachments B and C of this Order). Where appropriate, Watershed Management Areas may be separated into subwatersheds to focus water quality prioritization and implementation efforts by receiving water, or to align Permittee groups with "watershed authority groups" designated in the Los Angeles County Flood Control Act, so long as the Permittees implement all TMDL provisions for which they are identified as a responsible Permittee.

Permittees must identify the water quality priorities within each Watershed Management Area that will be addressed by the Watershed Management Program consistent with 40 CFR section 122.26(d)(2)(iv). At a minimum, these priorities must include achieving applicable water quality based effluent limitations and/or receiving water limitations established pursuant to TMDLs and included in this Order.

Each plan must include an evaluation of existing water quality conditions, including characterization of storm water and non-storm water discharges from the MS4 and receiving water quality, consistent with 40 CFR §§ 122.26(d)(1)(iv) and 122.26(d)(2)(iii), to support identification and prioritization/sequencing of management actions.

On the basis of the evaluation of existing water quality conditions, water body-pollutant combinations must be classified into one of the following three categories:

- Category 1 (Highest Priority): Water body-pollutant combinations for which water quality based effluent limitations and/or receiving water limitations are included in this Order to implement TMDLs.
- Category 2 (High Priority): Pollutants for which data indicate water quality impairment in the receiving water according to the State's Listing Policy and for which MS4 discharges may be causing or contributing to the impairment.
- Category 3 (Medium Priority): Pollutants for which there are insufficient data to indicate water quality impairment in the receiving water according to the State's Listing Policy, but which exceed applicable receiving water limitations contained in this Order and for which MS4 discharges may be causing or contributing to the exceedance.

Utilizing existing information, potential sources within the watershed for the pollutants in Categories 1 and 2 must be identified, consistent with 40 CFR sections 122.26(d)(1)(iii) and 122.26(d)(2)(ii). Permittees must identify known and suspected storm water and non-storm water pollutant sources in discharges to the MS4 and from the MS4 to receiving waters and any other stressors related to MS4 discharges causing or contributing to the highest water quality priorities (Categories 1 and 2).

Based on the findings of the source assessment, the issues within each watershed must be prioritized and sequenced. Factors that must be considered in establishing watershed priorities include:

1. Pollutants for which there are water quality based effluent limitations and/or receiving water limitations with interim or final compliance deadlines within the permit term.
2. Pollutants for which there are water quality based effluent limitations and/or receiving water limitations with interim or final compliance deadlines between October 26, 2012 and October 25, 2017.
3. Pollutants for which data indicate impairment in the receiving water and the findings from the source assessment implicates discharges from the MS4, but no TMDL has been developed.

Permittees must identify strategies, control measures, and BMPs to implement through their jurisdictional storm water management programs, or collectively on a watershed scale, with the goal of creating an efficient program to focus individual and collective resources on watershed priorities.

The following provisions of this Order may be part of the Watershed Control Measures within a Watershed Management Program:

1. Minimum Control Measures. Permittees may assess the minimum control measures (MCMs) as defined in this Order to identify opportunities for focusing resources on the high priority issues in each watershed. For each of the following minimum control measures, Permittees may propose modifications that will achieve equivalent pollutant control given watershed priorities:

    a. Development Construction Program
    b. Industrial/Commercial Program
    c. Illicit Connection/Illicit Discharge Detection and Elimination Program
    d. Public Agency Activities Program
    e. Public Information and Participation Program

2. Non-Storm Water Discharge Measures. Where Permittees identify non-storm water discharges from the MS4 as a source of pollutants in the source assessment, the Watershed Control Measures must include strategies, control measures, and/or BMPs that will be implemented to effectively eliminate the source of pollutants. These may include measures to prohibit the non-storm water discharge to the MS4, additional BMPs to reduce pollutants in the non-storm water discharge or conveyed by the non-storm water discharge, or strategies to require the non-storm water discharge to be separately regulated under a general NPDES permit.

3. TMDL Control Measures. Permittees must compile control measures that have been identified in TMDLs and corresponding implementation plans. If not sufficiently identified in previous documents, or if implementation plans have not yet been developed (e.g., EPA promulgated TMDLs), the Permittees must evaluate and identify control measures to achieve water quality based effluent limitations and/or receiving water limitations established in this Order pursuant to these TMDLs.

    a. TMDL control measures must include, where necessary, control measures to address both storm water and non-storm water discharges from the MS4.

b. TMDL control measures may include activities covered under the MCMs as well as BMPs and other control measures covered under the non-stormwater discharge provisions of this Order.

c. TMDL control measures must include, at a minimum, those actions that will be implemented during the permit term to achieve interim and/or final water quality based effluent limitations and/or receiving water limitations with compliance deadlines within the permit term.

Pursuant to 40 CFR sections 124.8, 124.9, and 124.18, as part of the Watershed Management Program plan, Permittees must conduct a Reasonable Assurance Analysis for each TMDL that consists of an assessment (through quantitative analysis or modeling) to demonstrate that the activities and control measures (i.e. BMPs) identified in the Watershed Control Measures will achieve applicable water quality based effluent limitations and/or receiving water limitations with compliance deadlines during the permit term.

Permittees must incorporate and, where necessary develop, numeric milestones and compliance schedules into the plan consistent with 40 CFR section 122.47(a). Numeric milestones and schedules shall be used to measure progress towards addressing the highest water quality priorities and achieving applicable water quality based effluent limitations and/or receiving water limitations. Where the TMDL Provisions do not include interim or final water quality based effluent limitations and/or receiving water limitations with compliance deadlines during the permit term, Permittees must identify interim numeric milestones and compliance schedules to ensure significant progress toward achieving interim and final water quality based effluent limitations and/or receiving water limitations with deadlines beyond the permit term (40 CFR § 122.47(a)(3)).

Schedules must be developed for both the strategies, control measures and BMPs to be implemented by each individual Permittee within its jurisdiction and for those that will be implemented by multiple Permittees on a watershed scale. Schedules must be adequate for measuring progress at least twice during the permit term. Schedules must incorporate the following:

1. Compliance deadlines occurring within the permit term for all applicable interim and/or final water quality based effluent limitations and/or receiving water limitations to implement TMDLs,

2. Interim deadlines and numeric milestones within the permit term for any applicable final water quality based effluent limitation and/or receiving water limitation to implement TMDLs, where deadlines within the permit term are not otherwise specified,

3. For watershed priorities related to addressing exceedances of receiving water limitations in Part V.A and not otherwise addressed by Part VI.E:

a. Numeric milestones based on measureable criteria or indicators, to be achieved in the receiving waters and/or MS4 discharges,

b. A schedule with interim and final dates for achieving the numeric milestones, and
c. Final dates for achieving the receiving water limitations as soon as possible.

Each Permittee must implement the Watershed Management Program immediately after determination by the Regional Water Board Executive Officer that the Watershed Management Program meets the requirements of this Order.

Clean Water Act section 402(a)(2) requires the permitting authority to prescribe conditions for MS4 permits to assure compliance, including conditions on data and information collection, reporting, and such other requirements as appropriate. Consistent with this requirement, Permittees in each Watershed Management Area must develop an integrated program to assess the progress toward achieving the water quality based effluent limitations and/or receiving water limitations per the compliance schedules, and the progress toward addressing the highest water quality priorities for each Watershed Management Area. The integrated watershed monitoring and assessment program may be customized, but must contain the basic elements (receiving water monitoring, storm water outfall monitoring, non-storm water outfall monitoring, new development/re-development effectiveness tracking and regional studies), and achieve the objectives of, the Monitoring and Reporting Program (MRP) (Attachment E of this Order).

Permittees in each Watershed Management Area must implement an adaptive management process, at least twice during the permit term, adapting the Watershed Management Program to become more effective, based on, but not limited to the following:

1. Progress toward achieving the outcome of improved water quality in MS4 discharges and receiving waters through implementation of the watershed control measures;

2. Progress toward achieving interim and/or final water quality based effluent limitations and/or receiving water limitations, or other numeric milestones where specified, according to established compliance schedules;

3. Re-evaluation of the highest water quality priorities identified for the Watershed Management Area based on more recent water quality data for discharges from the MS4 and the receiving water(s) and a reassessment of sources of pollutants in MS4 discharges;

4. Availability of new information and data from sources other than the Permittees' monitoring program(s) within the Watershed Management Area that informs the effectiveness of the actions implemented by the Permittees;

5. Regional Water Board recommendations; and

6. Recommendations for modifications to the Watershed Management Program solicited through a public participation process, consistent with 40 CFR section 122.26(d)(2)(iv).

Based on the results of the iterative process, Permittees are required to report any modifications necessary to improve the effectiveness of the Watershed Management Program in the Annual Report, and as part of the Report of Waste Discharge (ROWD). Permittees must implement any modifications to the Watershed Management Program upon acceptance by the Regional Water Board Executive Officer.

C. Storm Water Management Program Minimum Control Measures (MCMs)

1. General Requirements

a. Basis for MCMs. 40 CFR section 122.26(d)(2)(iv) establishes required elements of the Permittees' storm water management program. The previous permit, Order No. 01-182, included six categories of minimum control measures that are considered to be baseline or default requirements for meeting the requirements of 40 CFR section 122.26(d)(2)(iv). These requirements were determined appropriate within Order No. 01-182 and again appropriate for this Order. The minimum control measures require Permittees to implement BMPs that are considered necessary to reduce pollutants in storm water to the MEP and to effectively prohibit non-storm water discharges. In lieu of implementing the MCMs as described in Part VI of this Order, this Order allows for Permittees to develop alternative BMPs to comply with 40 CFR section 122.26(d)(2)(iv), when implemented through a Watershed Management Program approved by the Executive Officer of the Regional Water Board.

b. Timelines for Implementation

The timelines for implementation of most MCMs contained in Part VI.D of this Order is provided in Table F-5 below. Where implementation dates for minimum control measures are not provided in the Table, Part VI.D.1.b requires implementation within 6 months of the effective date this Order. Unless otherwise noted in Part VI.D of the Order, each Permittee that does not elect to develop a Watershed Management Program or enhanced Watershed Management Program per Part VI.C must implement the requirements contained in Part VI.D within 6 months after the effective date of this Order. In the interim, a Permittee shall continue to implement its existing storm water management program, including actions within each of the six categories of minimum control measures consistent with 40 CFR section 122.26(d)(2)(iv).

Permittees that elect to develop a Watershed Management Program or enhanced Watershed Management Program shall continue to implement their existing storm water management programs, including actions within each of the six categories of minimum control measures consistent with 40 CFR section 122.26(d)(2)(iv) until the Watershed Management Program or enhanced Watershed Management Program is approved by the Regional Water Board Executive Officer. The Table below denotes the timeframe for requirements as well as the basis of those timeframes. The majority of the timeframes are consistent with Order No. 01-182 as well as other area permits including the Ventura County MS4 Permit and the State Water Board's Construction General

NPDES Permit. The timeframe for notifications, submittals, and attaining compliance with permit requirements are determined to be the earliest practicable periods and ensure timely measures for protection of water quality.

Table F-5. Timeline for the Implementation of Permit Requirements

Part Number	Requirement Summary	Timeframe	Basis for Timeframe
Discharge Prohibitions			
III.A.2.a.ii	Drinking water suppliers must notify MS4 Permittee if intend to discharge to the Permittee's MS4.	At least 72 hours prior to a planned discharge and as soon as possible after an unplanned discharge.	Allows for advanced notice and sampling, if warranted.
III.A.4.e	If the Permittee determines that any of the authorized or conditionally exempt essential non-storm water discharges identified in Parts III.A.1.a through III.A.1.c, III.A.2.a or III.A.3 is a source of pollutants, notify the Regional Water Board if the non-storm water discharge has coverage under a separate NPDES permit or subject to a Record of Decision (ROD) approved under section 121 of CERCLA, or a conditionally exempt essential non-storm water discharge or emergency non-storm water discharge.	Within 30 days of determination.	The language in the previous LA MS4 permit, Order No. 01-182, states "promptly." The specification of a 30 day deadline is considered reasonable and the earliest practicable deadline to ensure the protection of water quality.
Table III.A	Dewatering of Lakes – Ensure procedures for advanced notification by the lake owner/operator to the Permittee(s).	At least 72 hours in advance of discharge.	Allows for advanced notice and sampling, if warranted.
Table III.A	Dechlorinated/debrominated swimming pool/spa discharges – Ensure procedures for advanced notification by the pool owner to the Permittee(s) prior to planned discharges of 100,000 gallons or more.	At least 72 hours in advance of discharge.	Allows for advanced notice and sampling, if warranted.
Table III.A	Dewatering of decorative fountains – Ensure procedures for advanced notification by the fountain owner to the Permittee(s) prior to planned discharges of 100,000 gallons or more.	At least 72 hours in advance of discharge.	Allows for advanced notice and sampling, if warranted.
Receiving Water Limitations			
V.A.3.a	Upon determination by either the Permittee or the Regional Water Board that discharges from the MS4 are causing or contributing to an exceedance of an applicable Receiving Water Limitation, the Permittee shall notify the Regional Water Board within 30 days of analytical results and thereafter submit an Integrated Monitoring Compliance Report within the next	Within 30 days of receipt of analytical results from the sampling event.	The language in the current LA MS4 permit reads "promptly." The specification of a 30 day deadline is considered reasonable and the earliest practicable deadline to ensure the protection of water quality.

Part Number	Requirement Summary	Timeframe	Basis for Timeframe
	Annual Report.		
V.A.3.b	Submit any modifications to the Integrated Monitoring Compliance Report required by the Regional Water Board	Within 30 days notification from the Regional Water Board.	This is consistent with Order No. 01-182
V.A.3.c	Permittee shall revise its control measures and monitoring program to incorporate the improved modified BMPs that will be implemented, an implementation schedule, and any additional monitoring required.	Within 30 days following Regional Water Board Executive Officer's approval of the Integrated Monitoring Report.	Allows for adequate time to make modifications.
Provisions			
VI.A.2.j	Discharger shall file with the Regional Water Board a report of waste discharge before making any material change or proposed change in the character, location, or volume of the discharge.	At least 120 days prior to any change.	Standard language.
Special Provisions: Watershed Management Programs			
VI.C.2.b	Permittees that elect to develop a Watershed Management Program must notify the Regional Water Board.	No later than 6 months after the date this Order is adopted.	This provides a reasonable amount of time to determine participation in a WMP, but also ensure adequate time for implementation of watershed scale control measures during the term of this Order.
VI.C.2.c	Permittees that elect to develop a Watershed Management Program shall submit a draft plan to the Regional Water Board Executive Officer.	No later than 18 months after the date this Order is adopted.	This provides a reasonable amount of time to complete the plan but also ensure effective monitoring during the term of this Order.
VI.C.6.a.i	Permittees in each Watershed Management Area shall implement an adaptive management process adapting the Watershed Management Program to become more effective.	At least twice during the permit term.	This encourages application of the iterative approach.
VI.C.6.b.i	Permittees in the Watershed Management Area shall implement the adaptive management process with regard to its jurisdictional storm water management program to improve its effectiveness.	At least annually.	This encourages application of the iterative approach.
Special Provisions: Minimum Control Measures			
VI.D.2.a.i	Progressive Enforcement and Interagency Coordination – In the event that a Permittee determines that a facility or site operator has failed to adequately implement all necessary BMPs, that Permittee shall take progressive enforcement which shall include a follow-up	Follow-up inspection within 4 weeks from the date of the initial inspection and/or investigation.	This is consistent with the current LA MS4 permit.

Part Number	Requirement Summary	Timeframe	Basis for Timeframe
	inspection.		
VI.D.2.b	Progressive Enforcement and interagency Coordination – Each Permittee shall initiate investigation of complaints from facilities within its jurisdiction.	Initiate investigation within one business day of complaint.	This is consistent with Order No. 01-182.
VI.D.5.b.ii	Public Information and Participation Program – If participating in a County-wide or Watershed Group PIPP, provide contact information for their appropriate staff responsible for storm water public education activities to the designated PIPP coordinator and contact information changes.	No later than 30 days after a change occurs.	This is consistent with Order No. 01-182 for contact changes, which directs contact changes be sent to Los Angeles County by May 1, 2002. However, with the elimination of the Principal Permittee in this Order, it is more appropriate to direct any contact information changes directly to the PIPP coordinator.
VI.D.6.b.iii	Industrial/Commercial Business Program – Each Permittee shall update its inventory of critical sources.	Update at least annually.	Business turn-over can be significant thus an active inventory is required.
VI.D.6.c.i	Industrial/Commercial Business Program – Each Permittee shall notify the owner/operator of each of its inventoried commercial and industrial sites identified in Part VI.D.5.b of this Order of the BMP requirements applicable.	Notify at least once during the five-year period of this Order.	This is required so that the owner/operator remains informed and vigilant about BMP implementation.
VI.D.6.d.i	Industrial/Commercial Business Program – Each Permittee shall inspect all commercial facilities identified in Part VI.D.5.b of this Order twice during the 5-year term of this Order with a minimum interval of 6 months between the first and second mandatory compliance inspection required.	Provided that the first mandatory compliance inspection occurs no later than 2 years after the date this Order is adopted.	Order No. 01-182 required initial implementation by August 2004 (or a little over 2.5 years), however the 2 year requirement contained in this Order is considered reasonable and the earliest practicable deadline to ensure the protection of water quality.
VI.D.6.e.i.(1)	Industrial/Commercial Business Program – Each Permittee shall perform an initial compliance inspection of all industrial facilities identified in Part VI.D.5.b.of this Order	No later than 2 years after the date this Order is adopted.	Order No. 01-182 required initial implementation by August 2004 (or a little over 2.5 years). However, the 2 year requirement contained in this Order is considered reasonable and the earliest practicable deadline to ensure the protection of water quality.
VI.D.6.e.i.(2)	Industrial/Commercial Business Program – Each Permittee shall review the State Water Board's Storm Water Multiple Application and Report Tracking System (SMARTS) database at defined	The first interval shall occur approximately 2 years after the date this Order is adopted. The second interval shall occur approximately 4	This specific requirement for inspecting facilities within certain intervals is a new requirement, but is considered consistent with Order No. 01-182.

Part Number	Requirement Summary	Timeframe	Basis for Timeframe
	intervals to determine if an industrial facility has been recently inspected by the Regional Water Board. The Permittee does not need to inspect the facility if it is determined that the Regional Water Board conducted an inspection of the facility within the prior 24 month period.	years after the date this Order is adopted.	
VI.D.6.e.i.(3)	Industrial/Commercial Business Program – Each Permittee shall evaluate its inventory of industrial facilities and perform a second mandatory compliance inspection at a minimum of 25% of the facilities identified to have filed a No Exposure Certification.	Approximately 3 to 4 years after the date this Order is adopted.	This is consistent Order No. 01-182.
VI.D.7.c.iii.(5).(f)	Planning and Land Development Program – Each Permittee shall develop a schedule for the completion of offsite projects, including milestone dates to identify, fund, design, and construct the projects.	Offsite projects shall be completed as soon as possible, and at the latest within 4 years of the certificate of occupancy for the first project that contributed funds toward the construction of the offsite project.	This requirement is consistent with the provisions contained in the Ventura County Redevelopment Project Area Master Plan (RPAMP).
VI.D.7.d.iv.(1).(c)	Planning and Land Development Program – Each Permittee shall maintain a database providing key information for each new development/re-development subject to the requirements of Part VI.D.6 of this Order.	Each Permittee shall implement a tracking system and an inspection and enforcement program for new development and redevelopment post-construction storm water no later than 60 days after Order adoption date.	Effectiveness tracking of the treatment system is warranted and will also help to ensure adequate maintenance.
VI.D.7.d.i	Planning and Land Development Program – A local LID ordinance that fully incorporated the applicable requirements of this Order shall be submitted to the Executive Officer of the Regional Water Board for approval.	Within 180 days after the date this Order is adopted.	The requirement is deemed acceptable due to the large number of existing LID ordinances within the Permittees and the varied number of templates available nationally.
VI.D.7.d.iii.(1).(a).(ii)	Planning and Land Development Program – Written conditions in the sales or lease agreement, which require the property owner or tenant to assume responsibility for BMP maintenance and conduct a maintenance inspection.	At least once a year.	This is consistent with the current Ventura County MS4 permit.
VI.D.7.d.iv	Planning and Land Development Program – Each Permittee shall implement a tracking system and an inspection and enforcement program from new development and redevelopment post-construction storm water BMPs.	No later than 60 days after the date this Order is adopted.	A tracking system is deemed critical to the success of this MCM. Additionally, a tracking system need not be complex and can, and has, been developed using

Part Number	Requirement Summary	Timeframe	Basis for Timeframe
			spreadsheets or equivalent.
VI.D.7.d.iv.(1).(c).(ii)	Planning and Land Development Program – Inspection of post-construction BMPs to assess operation conditions with particular attention to criteria and procedures for post-construction treatment control and hydromodification control BMP repair, replacement, or re-vegetation.	Inspection at least once every 2 years after project completion.	This is consistent with the current Ventura County MS4 permit.
VI.D.8.j.ii.(1)	Development Construction Program – Inspect public and private construction sites 1 acre or larger that discharge to a tributary listed by the state as an impaired water for sediment or turbidity under CWA § 303(d).	When two or more consecutive days with greater than 50% chance of rainfall are predicted by NOAA, within 48 hours of a ½-inch rain event, and at least once every two weeks.	This requirement is consistent with the current State Water Board's General NPDES Construction Permit Requirements.
VI.D.8.j.ii.(1)	Development Construction Program – Inspect public and private construction sites 1 acre or larger determined to be a significant threat to water quality.	When two or more consecutive days with greater than 50% chance of rainfall are predicted by NOAA, within 48 hours of a ½-inch rain event, and at least once every two weeks.	This requirement is consistent with the current State Water Board's General NPDES Construction Permit Requirements.
VI.D.8.j.ii.(1)	Development Construction Program – Inspect public and private construction sites 1 acre or larger that do not meet other criteria in Part VI.D.7.j.ii.(1) of this Order.	At least monthly.	This requirement is consistent with the current General Construction Permit Requirements.
VI.D.9.c.iii	Public Agency Activities Program – Each Permittee shall update its facility inventory.	At least once during the term of this Order.	This requirement is deemed reasonable because site conditions can change at existing facilities.
VI.D.9.h.iii.(2)	Public Agency Activities Program – In areas that are not subject to a trash TMDL, each Permittee shall inspect Priority A catch basins.	A minimum of 3 times during the wet season (October 1 through April 15) and once during the dry season every year.	This is consistent with Order No. 01-182.
VI.D.9.h.iii.(2)	Public Agency Activities Program – In areas that are not subject to a trash TMDL, each Permittee shall inspect Priority B catch basins.	A minimum of once during the wet season and once during the dry season every year.	This is consistent with Order No. 01-182.
VI.D.9.h.iii.(2)	Public Agency Activities Program – In areas that are not subject to a trash TMDL, each Permittee shall inspect Priority C catch basins.	A minimum of once per year.	This is consistent with Order No. 01-182.
VI.D.9.h.iv.(1).(c)	Public Agency Activities Program – Provide clean out of catch basins, trash receptacles, and grounds in the event area.	Within one business day subsequent to the event.	This is consistent with the current Ventura County MS4 permit.
VI.D.8.h.vi.(2)	Public Agency Activities Program – Each Permittee shall inspect the	Prior to the wet season every year.	This is consistent with Order No. 01-182.

Part Number	Requirement Summary	Timeframe	Basis for Timeframe
	legibility of the stencil or label nearest each inlet.		
VI.D.9.h.vi.(3)	Public Agency Activities Program – Each Permittee shall record all catch basins with illegible stencils and re-stencil or re-label.	Within 180 days of inspection.	This is consistent with Order No. 01-182.
VI.D.9.h.vii.(1)	Public Agency Activities Program – In areas that are not subject to a trash TMDL, each Permittee shall install trash excluders, or equivalent devices, on or in catch basins or outfalls, except at sites where the application of such BMPs alone will cause flooding.	No later than 4 years after the date this Order is adopted in areas specified as Priority A.	This is based on the current Ventura County MS4 permit, but due to the significant number of catch basins in Los Angeles County compared to Ventura County the time frame was lengthened.
VI.D.9.h.viii.(1)	Public Agency Activities Program – Visual monitoring of Permittee-owned open channels and other drainage structures, including debris basins, for debris.	At least annually.	This is consistent with Order No. 01-182.
VI.D.9.h.viii.(2)	Public Agency Activities Program – Removal of trash and debris from open channels.	A minimum of once per year before the wet season.	This is consistent with Order No. 01-182.
VI.D.9.i.ii	Public Agency Activities Program – Each Permittee shall perform street sweeping of curbed streets for Priority A areas.	Swept at least two times per month.	This is consistent with Order No. 01-182.
VI.D.9.i.ii	Public Agency Activities Program – Each Permittee shall perform street sweeping of curbed streets for Priority B areas.	Swept at least once per month.	This is consistent with Order No. 01-182.
VI.D.9.i.ii	Public Agency Activities Program – Each Permittee shall perform street sweeping of curbed streets for Priority C areas.	Swept as necessary but in no case less than once per year.	This is consistent with Order No. 01-182.
VI.D.9.i.iv.(1)	Public Agency Activities Program – Permittee-owned parking lots exposed to storm water shall be kept clear of debris and excessive oil buildup and cleaned.	No less than 2 times per month and/or inspected no less than 2 times per month to determine if cleaning is necessary. In no case shall a Permittee-owned parking lot be cleaned less than once a month.	This is consistent with Order No. 01-182.
VI.D.9.j.i.(2)	Public Agency Activities Program – Where the self-waiver has been invoked, the Permittee shall submit to the Regional Water Board Executive Officer a statement of the occurrence of the emergency, an explanation of the circumstances, and the measures that were implemented to reduce the threat to water quality.	No later than 30 business days after the situation of emergency has passed.	This is consistent with the current Ventura County MS4 permit.
VI.D.9.k.i	Public Agency Activities Program – Each Permittee shall train or ensure training of all of their employees	No later than 1 year after the date this Order is adopted and annually	Order No. 01-182 allowed for this to be initially completed by August

Part Number	Requirement Summary	Timeframe	Basis for Timeframe
	and contractors in targeted positions on the requirements of the overall storm water management program.	thereafter before June 30.	2002. However, since this implementation of this requirement is continuing from the previous LA MS4 permit, implementation within a year is considered reasonable and the earliest practicable period for implementation. This is consistent with Order No. 01-182 and the current Ventura County MS4 permit.
VI.D.9.k.ii	Public Agency Activities Program – Each Permittee shall train all of their employees and contractors or ensure training for all who use or have the potential to use pesticides or fertilizers.	No later than 1 year after the date this Order is adopted and annually thereafter before June 30.	This is consistent with the current Ventura County MS4 permit.
VI.D.10.b.ii	Illicit Connections and Illicit Discharges Elimination Program – Each Permittee shall initiate investigation(s) to identify and locate the source of an illicit discharge.	Within 72 hours of becoming aware of the illicit discharge.	Order No. 01-182 and the current Ventura County MS4 permit require illicit discharge investigations be initiated within 1 business day. However, the 72 hour requirement takes into account the possibility of weekend spills.
VI.D.10.b.iv.(2)	Illicit Connections and Illicit Discharges Elimination Program – If the source of the illicit discharge has been determined to originate within an upstream jurisdiction, the Permittee shall notify the upstream jurisdiction and the Regional Water Board.	Within 30 days of such determination.	This ensures the ID is addressed in a reasonable period of time by the upstream jurisdiction.
VI.D.10.b.v	Illicit Connections and Illicit Discharges Elimination Program – In the event the Permittee is unable to eliminate an ongoing illicit discharge following full execution of its legal authority and in accordance with its Progressive Enforcement Policy, or other circumstances prevent the full elimination of an ongoing illicit discharge, the Permittee shall work with the Regional Water Board to provide a diversion of the entire flow to the sanitary sewer or provide treatment.	Notify the Regional Water Board within 30 days of such determination and provide a written plan for review and comment.	This ensures the Regional Water Board is effectively engaged in the ultimate disposition of ongoing illicit discharges.
VI.D.10.c.ii	Illicit Connections and Illicit Discharges Elimination Program – Each Permittee, upon discovery or upon receiving a report of a suspected illicit connection, shall	Initiate investigation within 21 days of discovery.	This is consistent with Order No. 01-182 and the current Ventura County MS4 permit.

Part Number	Requirement Summary	Timeframe	Basis for Timeframe
	initiate an investigation.		
VI.D.10.c.iii.(2)	Illicit Connections and Illicit Discharges Elimination Program – Each Permittee, upon confirmation of an illicit MS4 connection, shall ensure that the connection is eliminated.	Within 180 days of completion of the investigation.	This is consistent with Order No. 01-182 and the current Ventura County MS4 permit.
VI.D.10.e.i.(2)	Illicit Connections and Illicit Discharges Elimination Program – Initiate investigation of all public and employee illicit discharge and spill complaints.	Within 1 business day of receiving the complaint.	This is consistent with Order No. 01-182 and the current Ventura County MS4 permit.
VI.D.10.e.i.(3)	Illicit Connections and Illicit Discharges Elimination Program – Response to spills for containment.	Within 4 hours of becoming aware of the spill, except where such spills occur on private property, in which case should be within 2 hours of gaining legal access to the property.	The requirement that spills be responded to within 4 hours of becoming aware of the spill, except where such spills occur on private property, in which case should be within 2 hours of gaining legal access to the property is the earliest practicable period for implementation and ensures the protection of water quality.
VI.D.10.f.iv	Illicit Connections and Illicit Discharges Elimination Program – Each Permittee must create a list of applicable staff and contractors which require IC/ID training and ensure that training is provided.	At least twice during the term of this Order.	This requirement is new and twice during the term of this Order is considered reasonable and the earliest practicable period for implementation.
VI.D.10.f.v	Illicit Connections and Illicit Discharges Elimination Program – New Permittee staff members must be provided with IC/ID training.	Within 180 days of starting employment.	The current Ventura MS4 permit specifies that within 1 year all employees must be trained. However, the requirement that employees be trained within 180 days of starting employment is the earliest practicable period for implementation and ensures the protection of water quality.

2. Progressive Enforcement

Progressive enforcement is a series of defined and reproducible enforcement actions whereby consequences of non-compliance increase with each incremental enforcement steps. Progressive enforcement includes procedures to coordinate enforcement between the Regional Water Board and Permittees. As the Regional Water Board is the agency responsible for implementing the NPDES program, it has the authority to step in when enforcement actions of Permittee are unsuccessful in bringing dischargers into compliance with the permit. As such, progressive enforcement is an effective strategy to achieve timely compliance with permit

requirements. Order No. 01-182 included requirements for a progressive enforcement strategy that are carried over to this Order, with some modifications. This Order includes supplemental documentation requirements for site acreage and Risk Factor rating, when making a referral to the Regional Water Board for MS4 permit non-compliance of a discharger under the construction general permit. This requirement is necessary information for the Regional Water Board consideration. Moreover, this Order eliminates the provision within Order No. 01-182 that allows the Regional Water Board and Permittees to form a storm water task force. This provision was removed because the ability for coordinated enforcement between the Regional Water Board and Permittees is adequately established through remaining provisions within Part VI.D.2 of this Order.

3. Modifications/Revisions

This Order requires each Permittee to modify its storm water management programs, protocols, practices, and municipal codes to be consistent with this Order. This provision is necessary to ensure that each Permittee takes all the steps necessary to update the core and ancillary programs that are required to ensure compliance with this Order. A significant change from Order No. 01-182 is that this obligation now rests with each individual Permittee rather than the Principal Permittee.

4. Public Information and Participation Program

a. Legal Authority

NPDES regulation 40 CFR section 122.26(d)(2)(iv)(A)(6) provides that the proposed management program include "A description of a program to reduce to the maximum extent practicable, pollutants in discharges from MS4s associated with the application of pesticides, herbicides, and fertilizer which will include, as appropriate, controls such as educational activities, permits, certifications, and other measures for commercial applicators and distributors, and controls for application in public right-of-ways and at municipal facilities."

NPDES regulation 40 CFR section 122.26(d)(2)(iv)(B)(6) provides that the proposed management program include " A description of education activities, public information activities, and other appropriate activities to facilitate the proper management and disposal of used oil and toxic materials."

To satisfy the Public Education and Outreach minimum control measure, the Permittees need to implement a Public Information and Participation Program (PIPP) that has the following objectives: (1) measurably increase the knowledge of the target audiences about the MS4, the adverse impacts of storm water pollution of receiving waters and potential solutions to mitigate the impacts, (2) measurably change the waste disposal and storm water pollution generation behavior of target audiences by developing and encouraging implementation of appropriate activities, and (3) involve and engage a diversity of socio-economic

groups and ethnic communities in Los Angeles County to participate in mitigating the impacts of storm water pollution.

b. Background

Implementation of a PIPP is a critical BMP and a necessary component of a storm water management program. The State Water Board Technical Advisory Committee "recognizes that education with an emphasis on pollution prevention is the fundamental basis for solving nonpoint source pollution problems." The USEPA Phase II Fact Sheet 2.3 (Fact Sheet 2.3) finds that "An informed and knowledgeable community is critical to the success of a storm water management program since it helps insure the following: (i) greater support for the program as the public gains a greater understanding of the reasons why it is necessary and important, and (ii) greater compliance with the program as the public becomes aware of the personal responsibilities expected of them and others in the community, including the individual actions they can take to protect or improve the quality of area waters."[31]

Furthermore, the public can provide valuable input and assistance to a municipal storm water management program and, therefore, should play an active role in the development and implementation of the program. An active and involved community is essential to the success of a storm water management program because it allows for:

- Broader public support since residents who participate in the development and decision making process are partially responsible for the program and, therefore, are more likely to take an active role in its implementation;
- Shorter implementation schedules due to fewer obstacles in the form of public and legal challenges and increased sources in the form of residents volunteers;
- A broader base of expertise and economic benefits since the community can be a valuable, and free, intellectual resource; and
- A conduit to other programs as residents involved in the storm water program development process make important cross-connections and relationships with other community and government programs. This benefit is particularly valuable when trying to implement a storm water program on a watershed basis.

c. PIPP Implementation

It is generally more cost-effective to have numerous operators coordinate to use an existing program than each developing its own local programs. Therefore, Permittees are encouraged to participate in a County-wide PIPP or in one or more Watershed Group sponsored PIPPs supplemented with additional information specific to local needs.

[31] Storm Water Phase II Final Rule - Public Education and Outreach Minimum Control Measure. USEPA Fact Sheet 2.3, January 2000.

Permittees are required to: (a) conduct storm water pollution prevention public service announcements and advertising campaigns; (b) provide public education materials on the proper handling or potential storm water pollutants; (c) distribute activity specific storm water pollution prevention public education materials to points of purchase; (d) maintain storm water websites or provide links to storm water websites via the Permittees website, which contain educational material and opportunities for the public to participate in storm water pollution prevention and clean-up activities; and (e) provide independent, parochial, and public schools within each Permittee's jurisdiction with materials, including, but not limited to videos, live presentations, and other information. Permittees are required to use effective strategies to educate and involve ethnic communities using culturally effective methods.

The intent of these changes is to provide an increase in public knowledge of storm water pollution prevention practices in an effective and cost efficient manner, while still providing flexibility for the Permittees to implement the requirements on a watershed group basis.

The Order requires outreach to ethnically diverse communities using culturally effective strategies. The USEPA, Tailoring Outreach Programs to Minority and Disadvantaged Communities and Children Fact Sheet finds that, "many residents of ethnically and culturally diverse communities don't speak English. English messages contained in public education outreach materials may not be effectively reaching a significant portion of some communities. The intent of this provision is to encourage behavior changes that reduce pollutants in storm water to a portion of the population who might otherwise be overlooked.

5. Industrial/Commercial Business Program

a. Legal Authority

The Phase I regulations require, in part, that the applicant: (i) develop adequate legal authority, (ii) perform a source identification, and (iii) develop a management program to reduce the discharge of pollutants to the MEP using management practices, control techniques and system design and engineering methods, and such other provisions which are appropriate. Specifically, with regards to industrial controls, the management plan shall include the following.

> "A description of a program to monitor and control pollutants in storm water discharges to municipal systems from municipal landfills, hazardous waste treatment, disposal and recovery facilities, industrial facilities that are subject to section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA), and industrial facilities that the municipal permit applicant determines are contributing a substantial pollutant loading to the municipal storm sewer system. The program shall:

i. Identify priorities and procedures for inspections and establishing and implementing control measures for such discharges.

ii. Describe a monitoring program for storm water discharges associated with industrial facilities […]"

(40 CFR section 122.26(d)(2)(iv)(C))

The provisions contained in this Order pertaining to the inspection and facility control program requirements for industrial and commercial facilities, as well as construction sites (as discussed below in Part VI.7.b.) are also based on the requirements found in the previous permit, Order No. 01-182. Those requirements, among others, were the subject of litigation between several permittees and the Regional Water Board. In that case, the Los Angeles County Superior Court upheld the inspection and facility control program requirements for industrial/commercial facilities and construction sites in Order No. 01-182. The Court determined that "[t]he Permit contains reasonable inspection requirements for these types of facilities. [Citation.] The Permit requires each permittees to confirm that operators of these facilities have a current waste discharge identification number and is effectively implementing Best Management Practices (BMPs) in compliance with County and municipal ordinances, Regional Board Resolution 90-08 and the Stormwater Quality Management Plans (SQMPs). [Citation.] Addressing pollution after it has entered the storm sewer system is not working to meet legislative goals. More work is required at the source of pollution, and that is partially the basis on which this Court finds that the Permit's inspection requirements are reasonable, and not onerous and burdensome." (*In re L.A. Cnty. Mun. Storm Water Permit Litig. (*(L.A. Super. Ct., No. BS 080548, Mar. 24, 2005), Statement of Decision from Phase II Trial on Petitions for Writ of Mandate, p. 17.)

The Court also addressed the permittees' claims that the requirements in Order No. 01-182 shifted the Regional Water Board's inspection responsibility under State Water Board issued general NPDES permits for these types of facilities onto the local agencies. The Court disagreed, stating: "The Court agrees with [the Regional Water Board] and Intervenors that the United States EPA considered obligations under state-issued general permits to be separate and distinct. Despite the similarity between the general permits and the local storm water ordinances, both must be enforced. [Citations.] EPA requires permittees to conduct inspections of commercial and industrial facilities, as well as of construction sites. [Citation.].….This Court finds that the state-issued general permits do not preempt local enforcement of local storm water ordinances. (See State Board Order No. 99-08, [citation].) [¶] Therefore, this Court finds that requiring permittees to inspect commercial and industrial facilities and construction sites is authorized under the Clean Water Act, and both the Regional Board and the municipal permittees or the local government entities have concurrent roles in enforcing the industrial, construction and municipal permits. The Court finds that the Regional Board did not shift its inspection responsibilities to Petitioners. [¶] … The Court further notes that the Permit issued to local entities, who are Petitioners here, does not refer to any inspection

obligations related to state-issued permits. [Citation.] There is no duplication of efforts and no shifting of inspection responsibility in derogation of the Regional Board's responsibility here. The Regional Board is not giving up its won responsibilities, and there is nothing arbitrary or capricious about the Permit's inspection provisions." (*Id*. at 17-18.)

It is also important to note that similar controls for industrial/commercial facilities and constriction sites, including inspection activities, required by this Order were also required in the 2002 San Bernardino County MS4 permit issued by the Santa Ana Regional Water Quality Control Board (Santa Ana Regional Water Board). Like Order No. 01-182, that permit was also subject to litigation. In that case, the City of Rancho Cucamonga claimed that the Santa Ana Regional Water Board improperly delegated to it and other permittees the inspection duties of the State and Regional Water Boards and that it was being required to conduct inspections for facilities covered by other state-issued general NPDES permits. (*City of Rancho Cucamonga v. Regional Water Quality Control Board- Santa Ana Region* (2006) 135 Cal.App.4th 1377, 1389.) Like the Los Angeles County Superior Court, the California Court of Appeal rejected this argument. The Court of Appeal upheld the Santa Ana Regional Water Board's requirements, finding that "Rancho Cucamonga and the other permittees are responsible for inspecting construction and industrial sites and commercial facilities within their jurisdiction for compliance with and enforcement of local municipal ordinances and permits. But the Regional Board continues to be responsible under the 2002 NPDES permit for inspections under the general permits. The Regional Board may conduct its own inspections but permittees must still enforce their own laws at these sites. (40 C.F.R. § 122.26, subd. (d)(2) (2005).)" (*Id*. at 1390.)

b. Background

Municipalities are required to control the storm water discharges associated with industrial activities and other commercial facilities identified as significant contributors of pollutants through the implementation of a mandatory baseline minimum set of source control BMPs; performance of an inspection program to verify the adequacy of BMPs implementation in the field and compliance with the municipal ordinances; and assist the Regional Water Board in ensuring that industrial activities subject to regulations are covered by the general industrial stormwater permit. Regional Water Board will also assist the municipalities in case of instances of egregious non-compliance with the municipal ordinances and state and federal laws and regulations.

The municipality is ultimately responsible for discharges from the MS4. Because industrial awareness of the program may not be complete, there may be facilities within the MS4 area that should be permitted under an industrial storm water permit but are not (non-filers). In addition, the Phase I regulations that require industries to obtain permit coverage for storm water discharges is largely based on Standard Industry Classification (SIC) Code. This has been shown to be incomplete in identifying industries that may be significant sources of storm water pollution ("industries" includes commercial businesses). The word "industries" is

used in a broad sense. Another concern is that the permitting authority may not have adequate resources to provide the necessary oversight of permitted facilities. Therefore, it is in the municipality's best interest to assess the specific situation and implement an industrial/commercial inspection/site visit and enforcement program to control the contribution of pollutants to the MS4 from all high risk sources.

In the preamble to the 1990 regulations, USEPA clearly states the intended strategy for discharges of storm water associated with industrial activity:

"…Municipal operators of large and medium municipal separate storm sewer systems are responsible for obtaining system-wide or area permits for their system's discharges. These permits are expected to require that controls be placed on storm water discharges associated with industrial activity which discharge through the municipal system." The USEPA also notes in the preamble that "… municipalities will be required to meet the terms of their permits related to industrial dischargers."

Similarly, in the USEPA's Guidance Manual (Chapter 3.0), USEPA specified that MS4 applicants must demonstrate that they possess adequate legal authority to:

i. Control construction site and other industrial discharges to MS4s;
ii. Prohibit illicit discharges and control spills and dumping;
iii. Carry out inspection, surveillance, and monitoring procedures.

The document goes on to explain that "control," in this context means not only to require disclosure of information, but also to limit, discourage, or terminate a storm water discharge to the MS4. Further, to satisfy its permit conditions, a municipality may need to impose additional requirements on discharges from permitted industrial facilities, as well as discharges from industrial facilities and construction sites not required to obtain permits.

In the same Guidance Manual (Chapter 6.3.3), USEPA states that the municipality is ultimately responsible for discharges from their MS4. Consequently, the MS4 applicant must describe how the municipality will help the USEPA and authorized NPDES States to:

i. Identify priority industries discharging to their systems;
ii. Review and evaluate storm water pollution prevention plans (SWPPPs) and other procedures that industrial facilities must develop under general or individual permits;
iii. Establish and implement BMPs to reduce pollutants from these industrial facilities (or require industry to implement them); and
iv. Inspect and monitor industrial facilities discharging storm water to the municipal systems to ensure these facilities are in compliance with their NPDES storm water permit, if required.

c. Industrial/Commercial Business Program Implementation

The requirements in this Order clarify the scope and frequency of inspections. For commercial facilities, in general, frequencies have been modified to require inspections of a facility twice during the five year permit tem provided that the first mandatory compliance inspection takes place no later than two years after the date this Order is adopted with a minimum interval of six months between the first and second inspection. The scope of the inspections for each of the facility types was clarified by specifying in tables what BMPs should be implemented at that facility to ensure that pollutant generating activity does not occur. The tables include a range of BMPs that are anticipated to be needed at select industrial and commercial facilities. The BMP categories are based on BMPs identified in the 2003 California Stormwater BMP Handbook, Industrial and Commercial as well as BMPs identified in Regional Water Board Resolution No. 98-08.

For industrial facilities, an initial mandatory compliance inspection must be completed at all industrial facilities no later than 2 years after the date this Order is adopted. If after the initial inspection, the facility was determined to as having exposure of industrial activities to storm water then the permit requires a second mandatory compliance inspection with a minimum interval of 6 months between the first and second mandatory compliance inspection. For facilities determined not to have exposure of industrial activities to storm water during the initial inspection, Permittees must conduct second compliance inspections yearly at a minimum of 20% of the facilities.

A provision was added to the Order relieving Permittees of the responsibility to inspect industrial facilities that the Regional Water Board has inspected within the previous 24 months.

In regards to the level of inspection, this Order clarifies that the Permittees are expected to check during inspections for a current Waste Discharge Identification (WDID) number for facilities discharging storm water associated with industrial activity, and that a SWPPP is available on site or that the owner/operator of the facility has applied for and has a current No Exposure Certification (and WDID number). In addition Permittees are expected to check during inspections for compliance with the implementation of minimum BMPs, as previously approved by Board Order 98-08, and compliance with the local storm water ordinances.

The inspection requirements in this Order provide greater clarification concerning the scope of enforcement. A progressive enforcement procedure was outlined including minimum steps that Permittees must take in their program to enforce their municipalities' storm water requirements. In recognition of some of the Permittees concerns regarding the resource intensive efforts needed to elevate enforcement actions, a mechanism was provided through which Permittees can refer cases to the Regional Water Board, and for violations of the State Water Board's General Industrial Activities Storm Water NPDES permit, the referral can be expedited, referral can occur after a single inspection and one written notice rather than referral after two inspections and two written notices.

6. Planning and Land Development Program

a. Legal Authority

The permit application requirements described in 40 CFR section 122.26(d) have formed the basis for MS4 permits and remain applicable as elements in a storm water management program. Section 122.26(d)(2)(iv) requires in part, that the large and medium MS4 applicant develop a management program. Specifically, with regards to planning and land development and post-construction controls, the management program shall include the following:

"(A) A description of structural and source control measures to reduce pollutants from runoff from commercial and residential areas that are discharged from the municipal storm sewer system that are to be implemented during the life of the permit, accompanied with an estimate of the expected reduction of pollutant loads and a proposed schedule for implementing such controls. At a minimum, the description shall include:

(1) A description of maintenance activities and a maintenance schedule for structural controls to reduce pollutants (including floatables) in discharges from municipal separate storm sewers;

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

(3) A description of practices for operating and maintaining public streets, roads and highways and procedures for reducing the impact on receiving waters of discharges from municipal storm sewer systems

(4) A description of procedures to assure that flood management projects assess the impacts on the water quality of receiving water bodies and that existing structural flood control devices have been evaluated to determine if retrofitting the device to provide additional pollutant removal from storm water is feasible."

b. Background

Land development and urbanization have been linked to the impairment of aquatic life beneficial uses in numerous studies. Poorly planned new developments and re-development have the potential to impact the hydrology of the watershed and the water quality of the surface waters. Development without proper controls, often result in increased soil compaction, changes in vegetation and increased impervious surfaces. These conditions may lead to a reduction in groundwater recharge and changes in the flow regime of the surface water

drainages. Historically, urban development has resulted in increased peak stream flows and flow duration, reduced base flows, and increased water temperatures. Pollutant loading in storm water runoff often increases due to post-construction use and because the storm water runoff is directly connected to the storm drain system or to the surface water body, without the benefit of filtration through soil and vegetation.

In a natural water body (i.e., a water body that has not been armored for flood control or channel stability), increased peak flows and flow duration can cause stream bank erosion, changes in channel geomorphology and bed sediment composition and stability.

When development infringes upon natural riparian buffers, the additional impacts may include further stream bank instability, increased nitrogen loadings to the water body—which would have been intercepted by native riparian vegetation, loss of shading resulting in further increase in water temperature, and a loss of woody debris and leaf litter, which provide food and habitat for some aquatic species.

Low Impact Development (LID) strategies are designed to retain storm water runoff on-site by minimizing soil compaction and impervious surfaces, and by disconnecting storm water runoff from conveyances to the storm drain system. This Order establishes criteria for the volume of storm water to be retained on-site as required to meet water quality goals and to preserve pre-development hydrology in natural drainage systems.

Monitoring studies conducted by the California Department of Public Health (CDPH) have documented that mosquitoes opportunistically breed in structural storm water Best Management Practices (BMPs), particularly those that hold standing water for over 96 hours. Certain Low Impact Development (LID) site design measures that hold standing water such as rainwater capture systems may similarly produce mosquitoes. BMPs and LID design features should incorporate design, construction, and maintenance principles to promote drainage within 96 hours to minimize standing water available to mosquitoes. This Order requires regulated MS4 Permittees to coordinate with other agencies necessary to successfully implement the provisions of this Order. These agencies may include CDPH and local mosquito and vector control agencies on vector-related issues surrounding implementation of post-construction BMPs.

This Order is not intended to prohibit the inspection for or abatement of vectors by the State Department of Public Health or local vector agencies in accordance with CA Health and Safety Code, § 116110 et seq. and Water Quality Order No. 2012-0003-DWQ.

In California, hydromodification studies have focused on the erosive effects of storm water runoff flows and the resulting changes in geomorphology and bed sediment. As described in Hawley (2011), southern California streams may be especially susceptible to geomorphic changes due to steep topography, flashy flow regimes, high sediment loads and largely non-resistant stream bed

material.[32] This recent study assessed the impact of urbanization on peak flow and the duration of lower flows capable of moving bed sediment. The results of the study showed that, urbanization resulted in proportionally-longer durations of all geomorphically-effective flows, with a more pronounced effect on the durations of low to moderate flows.

A study performed by United States Geological Survey (USGS) researchers at nine different metropolitan areas within the United States, found that adverse impacts to macroinvertebrate benthic communities were observed in drainages with 5 percent impervious area.[33] The authors concluded that there appears to be no percent impervious area threshold below which benthic communities are not adversely impacted

The Grand River (lower) Surrogate Flow Regime Total Maximum Daily Load (TMDL), prepared for the Ohio Environmental Protection Agency (OEPA), examined the impacts of impervious cover and flow regime changes on aquatic life beneficial uses.[34] The TMDL was approved by USEPA on April 12, 2012. The TMDL analysis showed that aquatic community health (as measured by biological indices) decreased as impervious cover increased. Flow alteration and impervious cover were determined to be the stressors impairing aquatic life. Riparian buffers were identified as a mitigating factor. Peak flow, runoff volume, and flashiness were considered as surrogates. However, for this watershed, flow regime was selected because it addresses the full spectrum of flow conditions (i.e., peak flow and flow duration and base flow). In this watershed, low flow and increased water temperature presented a threat to cold-water fish species. Increased peak flow and flow duration were linked to impairment of aquatic life beneficial uses due to increased pollutant loading and the impact of channel scouring. A flow duration curve was developed for a reference watershed, based on unit area to allow for comparison of varying-sized streams. The criteria for selecting the reference watershed were: (1) the water body was fully supporting aquatic life beneficial uses, (2) location (ecoregion), (3) size (4) land cover (5) riparian buffer and (6) soils. The flow regime TMDL compares flow duration curves for the impaired stream and the reference stream. The TMDL is expressed as the difference between the impaired stream's flow and the reference stream's flow during all flow conditions. The TMDL report recommends protection strategy numeric targets of no more than 6 percent EIA with a forested (70 percent coverage) riparian buffer of 100 feet from the top of each stream bank (200 feet total).

In Los Angeles County, development has infringed upon or eliminated natural riparian buffers and existing development exceeds recommended percent impervious area in many watersheds. In addition, many water bodies have been armored or converted to engineered channels to manage flood hazards. Because of the hydrologic differences between engineered channels and natural water

[32] Hawley, Robert J. 2011. The effects of urbanization on the hydrologic stability of small streams in southern California.
[33] Cuffney, T.F., Brightbill, R.A., May, J.T., and Waite, I.R. 2010. Responses of benthic macroinvertebrates to environmental changes associated with urbanization in nine metropolitan areas. *Ecological Applications* 20(5):1384-1401.
[34] Ohio Environmental Protection Agency. Total Maximum Daily Loads for the Grand River (lower) Watershed. Draft Report. October 12, 2011.

bodies, the Regional Water Board approaches each situation differently. Where development occurs in drainages to water bodies that have been converted to engineered channels, the Regional Water Board's regulatory approach is designed to reduce storm water runoff -- the most effective method for reducing pollutant loading. Alternatively, where development occurs in drainages to natural water bodies, the Regional Water Board regulatory approach aims to reduce pollutant loading conveyed by storm water runoff and to preserve or restore the pre-development hydrology. As a result of past development, it is likely that retrofitting of existing development will be necessary to restore watershed hydrology to pre-development conditions.

c. Applicability

New development and re-development projects subject to these requirements are described in Part VI.D.7.b. of this Order. Although not defined for large and medium MS4s, 40 CFR section 122.34 requires programs for small MS4s to include all projects that disturb an area equal to or greater than 1 acre of land and add more than 10,000 square feet of impervious surface area. The list of new development projects subject to requirements, specified in this Order in Parts VI.D.1.c.i(1)(a) through (k) were either carried over from Order No. 01-182 or were developed for the Ventura County MS4 and are appropriate for defining new developments and redevelopments in this Order. Clarification is provided for developments in progress during formulation of this Order (Part VI.D.c.i(1)(4)).

New development/re-development projects are subject to either the Water Quality/Flow Reduction Resource Management Criteria in Part VI.D.7.c.i or potentially more stringent Hydromodification (Flow/ Volume/ Duration) Control Criteria. Note that hydromodification controls apply only to projects that drain to a natural water body that is a stream, creek or a river. Hydromodification controls do not apply to discharges to lakes, estuaries, or to the ocean, which are not susceptible to channel erosion.

i. Integrated Water Quality/ Flow Reduction /Resources Management Criteria (Part VI.D.7.c.i). Projects located in drainages to water bodies that are now engineered channels are subject to Integrated Water Quality/Flow Reduction/Resources Management Criteria. These projects must be designed to minimize the footprint of the impervious area and to use low impact development (LID) strategies to disconnect the runoff from impervious area. The project must be designed to retain on-site the storm water runoff equal to the storm water quality design volume (SWQDv), unless it is determined that it is technically infeasible or there is an opportunity to contribute to an off-site regional ground water replenishment project.

The SWQDv is defined as the storm water runoff resulting from either:

- the 0.75 inch per 24 hour storm or
- the 85th percentile storm as defined in the Los Angeles County 85th percentile, 24-hour storm isohyetal map, whichever is greater.

This Order establishes a minimum design volume based on the 0.75 inch, 24-hour storm event as defined in the previous Los Angeles County MS4 permit (Order No. 01-182). This requirement is to prevent backsliding from the previous Order. The 85th percentile storm is the design storm used throughout most of the State of California for storm water treatment and LID BMPs designed for water quality protection.

Using detailed local rainfall data, the County of Los Angeles Hydrologist has developed the 85th percentile storm event isohyetal map, which exhibits the size of the 85th percentile storm event throughout Los Angeles County. Since this map uses detailed local rainfall data, it is more accurate for calculating the 85th percentile storm event than other methods which were included in Order No. 01-182. The other methods found in Order No. 01-182 were included as options to be used in the event that detailed accurate rainfall data did not exist for various locations within Los Angeles County. Therefore, they have not been carried over into this Order.

Storm water runoff may be retained on-site by methods designed to intercept rain water via infiltration, bioretention, and harvest and use. Examples of LID Best Management Practices (BMPs) that may be employed to meet the storm water retention requirements include rain gardens, bioswales, pervious pavement, green roofs, and rainwater harvesting for use in landscape irrigation.

ii. Alternative Compliance for Technical Infeasibility or Opportunity for Regional Ground Water Replenishment (Part VI.D.7.c.ii). This Order defines conditions that may make on-site retention of the SWQDv technically infeasible. These conditions include measures to:

- Ensure that on-site soils (*in-situ* or amended) have adequate infiltration rates for successful operation of infiltration BMPs,
- Protect groundwater and drinking water wells from contamination,
- Prevent infiltration that might exacerbate potential geotechnical hazards,
- Accommodate smart growth and infill or redevelopment.

A determination that compliance with the Integrated Water Quality/Flow Reduction/Resources Management Criteria is technically infeasible at the New Development/Re-development project site must be based on a site-specific hydrologic assessment or design analysis conducted and endorsed by a registered professional engineer, geologist, architect or landscape architect. This requirement is the same as contained in the Ventura County MS4 permit, and is necessary to ensure that a competent determination is conducted.

The criteria for technical infeasibility contained in Part VI.D.7.c.ii(2)(a) is necessary to ensure that the *in-situ* soil has adequate permeability to accommodate infiltration, and to ensure against premature failure of

infiltration BMPs. A minimum infiltration rate of 0.3 inches per hour under saturated conditions is specified for infiltration BMPs (e.g., dry well, pervious pavement). Infiltration BMPs are restricted to Hydrologic Soil Groups A and B, by other California storm water regulatory agencies. For example, the Contra Costa County Program's Stormwater LID Design Guidebook prohibits routing storm water runoff to a dry (infiltration) well, developed in Hydrologic Soil Groups C and D[35]. Infiltration rates for the lower permeability B soil group ranges between 0.30 and 0.15 inches per hour (USEPA, 2009, Appendix A)[36]. This criterion is specified to ensure the viability of infiltration systems, which may be depended upon to meet the storm water design volume criteria.

Infiltration BMPs are distinguished from bioretention BMPs, which may be implemented in all soils types. Bioretention BMPs are constructed using a manufactured/imported media that must meet strict specifications. The media specification for bioretention facilities is the same as specified for biofiltration systems. The difference between bioretention and biofiltration is that biofiltration systems are designed with an underdrain, which may allow for the discharge of a significant portion of the design storm volume, as described below under Alternative Compliance Measures. Bioretention BMPs may not include an underdrain.

The criteria for determining Technical Infeasibility described in Part VI.D.7.c.ii.(2)(b)-(f) are the same as contained in the Ventura County MS4 permit , except that (2)(b) "locations where seasonal high ground water is *within 5 feet of the surface*", was expanded to "5 to 10 feet" of the surface, to be consistent with local LID Manuals developed by the City of Santa Monica and the City of Los Angeles.

iii. Alternative Compliance Measures (Part VI.D.7.c.iii.). This Order provides equally weighted alternatives to on-site retention of the SWQDv. One alternative is to employ infiltration at off-site locations, including regional groundwater replenishment projects. The Regional Water Board has included the alternative for regional ground water replenishment in recognition of the multiple benefits it can provide. In addition to providing similar water quality benefits as compared to on-site retention, analysis by NRDC and UCSB found that implementing low impact development practices that emphasize retention at new and redeveloped residential and commercial properties in the urbanized areas of southern California and limited portions of the San Francisco Bay area has the potential to increase local water supplies by up to 405,000 acre-feet of water per year by 2030. This volume represents roughly two-thirds of the volume of water

[35] Contra Costa County Clean Water Program. 2010. Stormwater C.3 Guidebook, Stormwater Quality Requirements for Development Applications. Fifth Ed. October 20, 2010. p. 18. < www.cccleanwater.org>.

[36] USEPA. 2009. (United States Environmental Protection Agency). Technical Guidance on Implementing the Stormwater Runoff Requirements for Federal Projects under Section 438 of the Energy and Independence and Security Act. Office of Water. December 2009.

used by the entire City of Los Angeles each year. In addition, the same study notes potential energy savings and reductions in CO_2 emissions.[37]

In an effort to promote retrofitting of existing development, alternative compliance measures may include the use of infiltration, bioretention, rainfall harvest and/or biofiltration at an existing development with similar land uses and where storm water runoff is expected to exhibit pollutant event mean concentrations (EMCs) that are comparable to or higher than the proposed new development re-development project. As another alternative the project proponent may comply with the Integrated Water Quality/Flow Reduction/Resources Management Criteria using biofiltration on the project site. The volume of storm water to be treated with biofiltration is 1.5 times the difference between the SWQDv and the volume of storm water runoff that can be reliably retained on the project site. The 1.5 multiplier is based on the finding in the *Ventura County Technical Guidance Manual* that biofiltration of 1.5 times the design volume will provide approximately the same pollutant removal as retention of the design volume on an annual basis.[38]

The volume of storm water runoff to be intercepted at an off-site mitigation project is equal to the difference between the SWQDv and the volume of storm water runoff that can be *reliably retained* on the project site. The estimate of the volume that can be reliably retained on-site shall be based on conservative assumptions including permeability of soils under saturated conditions. When rainfall harvest and use is linked to irrigation demand, the demand shall be estimated based on conditions that exist during the wet weather, winter season.

Mitigation at off-site projects shall be designed to provide equal or greater water quality protection to the surface waters within the same subwatershed as the proposed project. Preferably, the mitigation site will be located within the same Hydrologic Unit Code (HUC)-12 drainage area as the proposed new development or re-development. However, the mitigation project may be located within the expanded HUC-10 drainage area, if approved by the Executive Officer of the Regional Water Board.

As described in the *Ventura County Technical Guidance Manual*, a biofiltration system as defined in this Order, including Attachment H, allows for incidental interception of approximately 40 percent of the treatment volume and treatment of the remaining volume through filtration, and aerobic and anaerobic degradation. The effectiveness of the biofiltration system is greatly impacted by the volume of storm water runoff that is intercepted through incidental infiltration. For this reason, biofiltration as defined in this Order, does not include flow-through planter

[37] NRDC Technical Report. A Clear Blue Future: How Greening California Cities Can Address Water Resources and Climate Change in the 21st Century. August 2009.

[38] Ventura Countywide Stormwater Management Program. 2011. Ventura Technical Guidance Manual, Manual Update, 2011. Appendix D. July 13, 2011.

box or vault type systems with impervious bottom layers, unless Executive Officer approval is obtained. In addition, biofiltration systems as defined in this Order, must meet the specifications for drain placement and planting media provided in Attachment L if they are to be credited as meeting the water quality/flow reduction requirements of the Alternative Compliance Measures of this Order, unless Executive Officer approval is obtained. Attachment H provides a compilation of recent information contained in the Contra Costa County C3 Guidebook and Order R2-2011-083, adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on November 28, 2011. These specifications are based on experiences in the San Francisco Bay Region and are designed to ensure optimum pollutant removal and to prevent premature failure of infiltration components of the biofiltration system.

iv. **Water Quality Mitigation Criteria (Part VI.D.7.c.iii.(7).)** When off-site mitigation is performed, the storm water runoff from the project site must be treated prior to discharge. Volume-based treatment BMPs are to be sized to treat the runoff from the 85th percentile, 24-hour storm event, as described above for storm water retention BMPs. Flow through treatment BMPs are to be sized based on a rainfall intensity of 0.2 inches per hour or the one year, one-hour rainfall intensity as determined from the Los Angeles County isohyetal map, whichever is greater. A minimum flow design of 0.2 inches per hour is consistent with Order No. 01-182 and is included to prevent back sliding. The one year, one-hour rainfall intensity is the flow requirement specified in the Los Angeles River Trash Total Maximum Daily Loads (TMDL) and other Trash TMDLs established in the Region. The Los Angeles County isohyetal map of the one-year, one-hour storm intensity provides an accurate measure of variable storm intensity throughout the County. The one-year, one-hour rain intensity within the County ranges from approximately 0.2 inch/hour to 1.1 inches per hour.

v. **Hydromodification (Flow/ Volume/ Duration Control Criteria (Part VI.D.7.iv.).** New development/re-development projects located in a drainage to a natural stream/creek/river water body shall be required to meet the water quality/flow reduction criteria and/or hydromodification control criteria, whichever are more stringent. (Hydromodification controls do not apply to discharges to lakes, estuaries or to the Pacific Ocean as these types of water bodies are not susceptible to hydromodification impacts.) This Order provides Hydromodification Control Criteria to be employed. The purpose of the hydromodification controls is to preserve or restore pre-development hydrology.

Part VI.D.7.iv.(b) of this Order describes New Development/Re-development projects that are exempted from hydromodification controls. These projects include maintenance and replacement activities and other projects that do not increase EIA within the subwatershed and therefore

are not expected to add to the hydromodification effects. Also exempted are projects located within drainages to waterbodies that are not susceptible to channel erosion or other hydromodification effects.

This Order offers four options for meeting the hydromodification controls for projects that will disturb greater than 1 acre but less than 50 acres:

- The project is designed to retain the storm water runoff from the 95th percentile, 24-hour-hour storm. This criterion is based on the recommendations from the USEPA's *Technical Guidance on Implementing the Stormwater Runoff Requirements for Federal Projects under Section 438 of the Energy Independence and Security Act* (USEPA, 2009).
- The runoff flow rate, volume, velocity and duration does not exceed the pre-development condition for the 2-year, 24-hour rainfall event. Research has determined that the maximum point of the effective work curve occurs in the 1 to 2-year frequency (Leopold, 1964, as cited in the South Orange County Hydromodification Plan, 2011)[39]. Furthermore, the effects of development are greatest during smaller storm events. Under natural conditions, the storm water runoff from smaller storms would have been largely intercepted by vegetation, canopy, infiltration and/or evapotranspiration. During large storms, the soils become saturated and runoff occurs even under natural conditions.
- The Erosion Potential (Ep) in the receiving water channel will approximate 1, as determined by the Hydromodification Analysis Study and the Equation presented in Attachment J. This provision is the same as the requirement in the Ventura County MS4 permit (Order No. R4-2010-0108). By maintaining an Ep of approximately 1, the bed sediment of the channel is in an equilibrium state. Alternatively, Permittees can opt to use other work equations to calculate Erosion Potential with Executive Officer approval.
    - Permittees may also satisfy the requirement for Hydromodification Controls by implementing the hydromodification requirements in the County of Los Angeles Low Impact Development Manual (2009) for all projects disturbing an area greater than 1 acre within natural drainage systems.

For projects disturbing more than 50 acres, compliance with the controls may be achieved by similar means. However, the plans must be supported by more comprehensive hydrologic modeling. The final

[39] South Orange County. 2011. South Orange County Hydromodification Management Plan. < http://www.waterboards.ca.gov/sandiego/water_issues/programs/stormwater/docs/oc_permit/updates_031212/South_Orange_County%20HMP.pdf > Accessed April 25, 2012.

Subwatershed Hydromodification Plan must be completed within one year after the effective date of the Order.

The elements of the Subwatershed Hydromodification Plan are:

- Screening to assess which subwatersheds exhibit changes in geomorphology.
- Identify natural drainage systems within the subwatershed that are susceptible to hydromodification impacts,
- Identify areas critical to the hydrology (e.g., groundwater recharge areas, riparian buffers and wetlands) of the subwatershed and identify potential protection strategies for such areas,
- Conduct or access bioassessment monitoring data to assess whether aquatic life uses are being fully supported,
- Prepare preliminary protection strategies for subwatersheds that are fully supporting aquatic life beneficial uses,
- Prepare preliminary retrofit strategies for subwatersheds that exhibit the effects of hydromodification and are not fully supporting aquatic life beneficial uses,
- Identify candidate reference sub-watersheds that are supporting aquatic life beneficial uses and develop a flow duration curve that may serve as a standard for flow duration controls in water bodies that have aquatic life impairments linked to changes in the flow regime. This approach is as described in the recently approved OEPA, Grand River (lower) Flow Regime TMDL.

7. Development and Construction Program

a. Introduction

Soil disturbing activities during construction and demolition exacerbate sediment losses. Sediment is a primary pollutant impacting beneficial uses of watercourses. Sediments, and other construction activity pollutants must be properly controlled to reduce or eliminate adverse impacts.

b. Legal Authority

40 CFR section 122.34(b)(4) states that with respect to construction site storm water runoff control for small MS4s, which is analogous to that for large MS4s:

> "(i) [the permittee] must develop, implement, and enforce a program to reduce pollutants in any storm water runoff to your small MS4 from construction activities that result in a land disturbance of greater than or equal to one acre. Reduction of storm water discharges from construction activity disturbing less than one acre must be included in your program if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more. If the NPDES permitting authority waives

> requirements for storm water discharges associated with small construction activity in accordance with § 122.26(b)(15)(i), you are not required to develop, implement, and/or enforce a program to reduce pollutant discharges from such sites. (ii) Your program must include the development and implementation of, at a minimum: (A) An ordinance or other regulatory mechanism to require erosion and sediment controls, as well as sanctions to ensure compliance, to the extent allowable under State, Tribal, or local law; (B) Requirements for construction site operators to implement appropriate erosion and sediment control best management practices; (C) Requirements for construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality; (D) Procedures for site plan review which incorporate consideration of potential water quality impacts; (E) Procedures for receipt and consideration of information submitted by the public, and (F) Procedures for site inspection and enforcement of control measures."

The inspection requirements for construction sites contained in this Order are also based on the requirements found in Order No. 01-182. As noted above in Part VI.C.5.a, the inspection requirements contained in Order No. 01-182 for construction sites were the subject of litigation between several permittees and the Regional Water Board. As provided in more detail above, the Los Angeles County Superior Court upheld the inspection requirements for industrial/commercial facilities and construction sites in Order No. 01-182, finding that the "[t]he Permit contains reasonable inspection requirements for these types of facilities." (*In re L.A. Cnty. Mun. Storm Water Permit Litig.* (L.A. Super. Ct., No. BS 080548, Mar. 24, 2005), Statement of Decision from Phase II Trial on Petitions for Writ of Mandate, p. 17.) As also noted above, the Superior Court also rejected the permittees' claims that the requirements in Order No. 01-182 shifted the Regional Water Board's inspection responsibility under State Water Board issued general NPDES permits for these types of facilities onto the local agencies, finding that "[r]equiring permittees to inspect commercial and industrial facilities and construction sites is authorized under the Clean Water Act, and both the Regional Board and the municipal permittees or the local government entities have concurrent roles in enforcing the industrial, construction and municipal permits. The Court finds that the Regional Board did not shift its inspection responsibilities to Petitioners." (*Id*. at 17-18.)

As previously noted for inspections of commercial/industrial facilities, the California Court of Appeal also rejected arguments pertaining to similar inspection requirements for construction sites prescribed by the Santa Ana Regional Water Board. (*City of Rancho Cucamonga v. Regional Water Quality Control Board- Santa Ana Region* (2006) 135 Cal.App.4th 1377, 1389.) In that case, the City of Rancho Cucamonga claimed that the Santa Ana Regional Water Board improperly delegated to it and other permittees the inspection duties

of the State and Regional Water Boards and that it was being required to conduct inspections for facilities covered by other state-issued general NPDES permits. The Court of Appeal upheld the Santa Ana Regional Water Board's requirements, finding that "Rancho Cucamonga and the other permittees are responsible for inspecting construction and industrial sites and commercial facilities within their jurisdiction for compliance with and enforcement of local municipal ordinances and permits. But the Regional Board continues to be responsible under the 2002 NPDES permit for inspections under the general permits. The Regional Board may conduct its own inspections but permittees must still enforce their own laws at these sites. (40 C.F.R. § 122.26, subd. (d)(2) (2005).)" (*Id.* at 1390.)

c. Construction Activity Applicability

Any construction or demolition activity, including, but not limited to, clearing, grading, grubbing, or excavation, or any other activity that results in a land disturbance of equal to or greater than one acre.

Construction activity that results in land surface disturbances of less than one acre if the construction activity is part of a larger common plan of development or sale of one or more acres of disturbed land surface.

Construction activity related to residential, commercial, or industrial development on lands currently used for agriculture including, but not limited to, the construction of buildings related to agriculture that are considered industrial pursuant to USEPA regulations, such as dairy barns or food processing facilities.

Construction activity associated with linear underground/overhead project (LUPs) including, but not limited to, those activities necessary for the installation of underground and overhead linear facilities (e.g., conduits, substructures, pipelines, towers, poles, cables, wires, connectors, switching, regulating and transforming equipment and associated ancillary facilities) and include, but are not limited to, underground utility mark-out, potholing, concrete and asphalt cutting and removal, trenching, excavation, boring and drilling, access road and pole/tower pad and cable/wire pull station, substation construction, substructure installation, construction of tower footings and/or foundations, pole and tower installations, pipeline installations, welding, concrete and/or pavement repair or replacement, and stockpile/borrow locations.

Discharges of sediment from construction activities associated with oil and gas exploration, production, processing, or treatment operations or transmission facilities.

Storm water discharges from dredge spoil placement that occur outside of U.S. Army Corps of Engineers jurisdiction[40] (upland sites) and that disturb one or more acres of land surface from construction activity are covered by this General

[40] A construction site that includes a dredge and/or fill discharge to any water of the United States (e.g., wetland, channel, pond, or marine water) requires a permit from the U.S. Army Corps of Engineers pursuant to CWA section 404 and a Water Quality Certification from the Regional Water Board or State Water Board pursuant to CWA section 401.

Permit. Construction projects that intend to disturb one or more acres of land within the jurisdictional boundaries of a CWA section 404 permit should contact the appropriate Regional Water Board to determine whether this permit applies to the project.

d. Development Construction Program Implementation

Permittees must implement a construction program that applies to all activities involving soil disturbance with the exception of agricultural activities. Minimum requirements have been established for construction activity less than one acre and for those activities equal or greater than one acre. Activities covered by the permit include but are not limited to grading, vegetation clearing, soil compaction, paving, re-paving, and LUPs. The construction program should be designed to: (1) prevent illicit construction-related discharges of pollutants into the MS4 and receiving waters; (2) implement and maintain structural and non-structural BMPs to reduce pollutants in storm water runoff from construction sites; (3) reduce construction site discharges of pollutants to the MS4 to the MEP; and (4) prevent construction site discharges to the MS4 from causing or contributing to a violation of water quality standards.

Each permittee shall use an site system to track grading permits, encroachment permits, demolition permits, building permits, or construction permits (and any other municipal authorization to move soil and/ or construct or destruct that involves land disturbance) issued by each permittee. To satisfy this requirement, the use of a database or GIS system is recommended.

For construction activity equal or greater than one acre, the Permittee must establish review procedures for construction site plans to determine potential water quality impacts and ensure the proposed controls are adequate. These procedures should include the preparation and submission of an Erosion and Sediment Control Plan (ESCP) containing elements of a Storm Water Pollution Prevention Plan (SWPPP) prior to issuance of a grading or building permit as well as a review of individual pre-construction site plans to ensure consistency with local sediment and erosion control requirements. The requirement that ESCP/SWPPPs must be developed by a Qualified SWPPP Developer (QSD) is new for this iteration of the permit. This requirement ensures the development of high quality ESCP/SWPPPs that protect water quality to the MEP.

A ESCP/SWPPP must be appropriate for the type and complexity of a project and will be developed and implemented to address project specific conditions. Some projects may have similarities or complexities, yet each project is unique in its progressive state that requires specific description and selection of BMPs needed to address all possible generated pollutants. The Permittee must ensure that construction site operators select and implement appropriate erosion and sediment control measures to reduce or eliminate the impacts to receiving waters. To help guide their Construction Program and ensure consistency regarding BMP selection, the Permit requires the Permittee to develop or adopt BMP standards for a range of construction related activities. The list of activities is based on California Stormwater Quality Association's (CASQA) Construction

BMP handbook. The ESCP/SWPPP must include the rationale used for selecting or rejecting BMPs. The project architect, or engineer of record, or authorized qualified designee, must sign a statement on the ESCP/SWPPP to the effect:

"As the architect/ engineer of record, I have selected, appropriate BMPs to effectively minimize the negative impact of the project's construction activities on storm water quality. The project owner and contractor are aware that the selected BMPs must be installed, monitored, and maintained to ensure their effectiveness. The BMPs not selected for implementation are redundant or deemed not applicable to the proposed construction activity."

The Permittee is responsible for conducting inspection and enforcement of erosion and sediment control measures at specified times and frequencies during construction including prior to land disturbance, during grading and land development, during streets and utilities activities, during vertical construction, and during final landscaping and site stabilization. The Permittees' Municipal Inspectors must be adequately trained and Permittees are encouraged to offer opportunities for inspectors to enroll in the State Water Board sponsored Qualified Storm Water Pollution Prevention Plan (SWPPP) Practitioner (QSP) certification program. A progressive enforcement policy has been integrated into this iteration of the permit to ensure that adequate penalties are in place and to ensure the protection of receiving water quality.

Prior to approving and/ or signing off for occupancy and issuing the Certificate of Occupancy for all construction projects subject to post-construction controls, each permittee shall inspect the constructed site design, source control and treatment control BMPs to verify that they have been constructed in compliance with all specifications, plans, permits, ordinances, and this Order. The initial/ acceptance BMP verification inspection does not constitute a maintenance and operation inspection.

The Permittee must ensure that staff has proper training. In addition, the Permittee must develop and distribute training and educational material and conduct outreach to the development community. To ensure that the construction program is followed, construction operators must be educated about site requirements for control measures, local storm water requirements, enforcement activities, and penalties for non-compliance.

8. Public Agency Activities Program

a. Background

Publically-owned or operated facilities serve as hubs of activity for a variety of municipal staff from many different departments. Some municipalities will have one property at which all activities take place (e.g., the municipal maintenance yard), whereas others will have several specialized facilities such as animal control facilities, chemical storage facilities, composting facilities, equipment storage and maintenance facilities, fueling facilities, hazardous waste disposal facilities, incinerators, landfills, materials storage yards, pesticide storage

facilities, public buildings, public parking lots, public golf courses, public swimming pools, public parks, public marinas, recycling facilities, solid waste handling and transfer facilities, and flood control facilities.

b. Program Implementation

i. Public Construction Activities Management

The Permittee is required to implement BMPs and comply with the Planning and Land Development Program requirements in Part VI.D.6 of this Order and the Development Construction Program requirements in Part VI.D.7 of this Order at applicable Permittee-owned or operated (i.e., public or Permittee sponsored) construction projects. These requirements ensure that Permittee-owned or operated construction and development occurs in an equally protective manner as private development. The Permittee is also required to implement an effective combination of erosion and sediment control BMPs from Table 13 (see Construction Development Program, minimum BMPs) at those public sites that disturb less than one acre of soil. Last, the Permittee is required to obtain separate coverage under the State Water Board's Construction General NPDES Permit for all Permittee-owned or operated construction sites that require coverage.

ii. Public Facility Inventory

A comprehensive list of publically-owned or operated facilities will help staff responsible for storm water compliance build a better awareness of their locations within the MS4 service area and their potential to contribute storm water pollutants. The inventory should include information on the location, contact person at the facility, activities performed at the facility, and whether the facility is covered under an industrial general storm water permit or other individual or general NPDES permit, or any applicable waivers issued by the Regional or State Water Board pertaining to storm water discharges. Incorporation of GIS into the inventory is encouraged. The facility inventory should be updated at least twice during the permit term and will serve as a basis for setting up periodic facility assessments and developing, where necessary, facility storm water pollution prevention plans. By developing an inventory of Permittee-owned facilities that are potential sources of storm water pollution helps to ensure that these facilities are monitored and receiving water quality is protected.

iii. Inventory of Existing Development for Retrofitting Opportunities

Each Permittee is required to maintain an updated inventory of all Permittee-owned or operated (i.e., public) facilities within its jurisdiction that are potential sources of storm water pollution. This requirement is similar to the requirement of Order No. 01-182. In this Order, the incorporation of facility information into a GIS is recommended as this has been proven effective for effectively inventory and management of facilities and associated BMPs. Given that facility operation, condition, and practices can

change over a five year period, the Permittees are required to update its inventory at least twice during the term of this Order.

In addition to developing an inventory of publically-owned or operated facilities, in this Order, Permittees are required to develop an inventory of existing development for retrofitting opportunities. The intention of adding this requirement to the permit is to encourage the use of retrofit projects that reduce storm water pollutants into the MS4 that are a result of impacts from existing development. Permittees are also required to evaluate and rank these retrofitting opportunities.

iv. Public Agency Facility and Activity Management

Each Permittee is required to manage its facilities in accordance with the State Water Board's Industrial General NPDES Permit, where applicable, and shall ensure the implementation and maintenance of appropriate BMPs at all facilities with a potential to pollute stormwater. Therefore, Permittees shall obtain separate coverage under the State Water Board's Industrial General NPDES Permit for all Permittee-owned or operated facilities where industrial activities are conducted that require coverage under the Industrial General NPDES Permit and shall implement and maintain activity specific BMPs listed in Table 19 (BMPs for Public Agency Facilities and Activities).

Many municipalities use third-party contractors to conduct municipal maintenance activities in lieu of using municipal employees. Contractors performing activities that can affect storm water quality must be held to the same standards as the Permittee. Not only must these expectations be defined in contracts between the Permittee and its contractors, but the Permittee is responsible for ensuring, through contractually-required documentation or periodic site visits, that contractors are using storm water controls and following standard operating procedures. Therefore, the Permittee shall ensure all contractors hired by the Permittee to conduct Public Agency Activities including, but not limited to, storm and/or sanitary sewer system inspection and repair, street sweeping, trash pick-up and disposal, and street and right-of-way construction and repair shall be contractually required to implement and maintain the activity specific BMPs listed in Table 18.

v. Vehicle and Equipment Washing

Specific BMPs for all fixed vehicle and equipment washing; including fire fighting and emergency response vehicles have been incorporated into this Order and must be implemented. In addition, specific BMPs for wash waters from vehicle and equipment washing. These requirements effectively prohibit the occurrence of illicit discharges resulting from unauthorized washing activities.

vi. Landscape, Park, and Recreational Facilities Management

Specific BMPs for public right-of-ways, flood control facilities and open channels, lakes and reservoirs, and landscape, park, and recreation facilities and activities have been included this Order, similar to those in Order No. 01-182 and the more recently adopted Ventura County MS4 Permit, and must be implemented. These requirements are reflective of current environmentally responsible practices.

vii. Storm Drain Operation and Maintenance

Specific BMPs for storm drain operations and maintenance have been carried over from Order No. 01-182 into this Order.

Permittees must prioritize catch basins for cleaning activities based on the volume of trash or debris.

The materials removed from catch basins may not reenter the MS4. The material must be dewatered in a contained area and the water treated with an appropriate and approved control measure or discharged to the sanitary sewer. The solid material will need to be stored and disposed of properly to avoid discharge during a storm event. Some materials removed from storm drains and open channels may require special handling and disposal, and may not be authorized to be disposed of in a landfill.

viii. Streets, Roads, and Parking Facilities Maintenance

Permittees must prioritize streets and/or street segments for sweeping activities based on the volume of trash generated on the street or street segments. Based on these established priorities, Permittees must conduct street sweeping twice per month on the highest priority streets (Priority A), once per month on the medium priority streets (Priority B), and as needed but not less than once per year on the lowest priority streets (Priority C). In addition parking facilities must be cleaned using street sweeping equipment no less than two times per month and inspect no less than two times per month to determine if cleaning is necessary.

Specific BMPs for road reconstruction have been incorporated into this Order and must be followed during road repaving activities.

ix. Emergency Procedures

Permittees are required to conduct repairs of essential public service systems and infrastructure in emergency situations. These requirements ensure the protection of water quality. BMPs must be implemented to reduce the threat to water quality and the Regional Water Board must be notified of the occurrence, an explanation of the circumstances and measures taken to reduce the threat to water quality within 30 business days after the emergency has passed.

x. Municipal Employee and Contractor Training

Permittees are required to ensure that training is provided for employees and contractors that have job duties or participate in activities that have the potential to affect storm water quality. The training should promote a general understanding of the potential for activities to pollute storm water and include information on the identification of opportunities to require, implement, and maintain BMPs associated with the activities they perform. In addition training specific to employees or contractors that use or have the potential to use pesticides or fertilizers should be provided. This training should instruct employees and contractors on the potential for pesticide-related surface water toxicity, the proper use, handling and disposal of pesticides, the least toxic methods of pest prevention and control, and the overall reduction of pesticide use.

Many municipalities use third-party contractors to conduct municipal maintenance activities in lieu of using municipal employees. Contractors performing activities that can affect storm water quality must be held to the same standards as the Permittee. Not only must these expectations be defined in contracts between the Permittee and its contractors, but the Permittee is responsible for ensuring, through contractually-required documentation or periodic site visits, that contractors are using storm water controls and following standard operating procedures.

9. Illicit Connection and Illicit Discharge Elimination Program

a. Legal Authority

A proposed management program "shall be based on a description of a program, including a schedule, to detect and remove (or require the discharger to the municipal storm sewer to obtain a separate NPDES permit for) illicit discharges and improper disposal into the storm sewer," per 40 CFR section 122.26(d)(2)(iv)(B). A Permittee must include in its proposed management program "a program, including inspections, to implement and enforce an ordinance, orders or similar means to prevent illicit discharges to the municipal storm sewer system," per subsection (1) of the above federal regulation.

USEPA stormwater regulations define "illicit discharge" as "any discharge to a municipal separate storm sewer that is not composed entirely of stormwater" except discharges resulting from fire fighting activities and discharges from NPDES permitted sources (see 40 CFR section 122.26(b)(2)). The applicable regulations state that the following non-stormwater discharges may be allowed if they are not determined to be a significant source of pollutants to the MS4: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration (as defined at 40 CFR section 35.2005(20)), uncontaminated pumped ground water, discharges from drinking water supplier distribution systems, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian

habitats and wetlands, dechlorinated swimming pool discharges, and street wash water. If, however, these discharges are determined to be a significant source of pollution then they must be prohibited.

Examples of common sources of illicit discharges in urban areas include apartments and homes, car washes, restaurants, airports, landfills, and gas stations. These so called "generating sites" discharge sanitary wastewater, septic system effluent, vehicle wash water, washdown from grease traps, motor oil, antifreeze, gasoline and fuel spills, among other substances. Although these illicit discharges can enter the storm drain system in various ways, they generally result from either direct connections (e.g., wastewater piping either mistakenly or deliberately connected to the storm drains) or indirect connections (e.g., infiltration into the storm drain system, spills, or "midnight dumping"). Illicit discharges can be further divided into those discharging continuously and those discharging intermittently.

b. Illicit Discharge Source Investigation and Elimination

Section 402(p)(3)(B)(ii) of the CWA requires MS4 permits to “effectively prohibit non-stormwater discharges into the storm sewers.” The permit implements this requirement, in part by requiring the development of procedures to investigate and eliminate illicit discharges. The permittee must develop a clear, step-by-step procedure for conducting the investigation of illicit discharges. The procedure must include an investigation protocol that clearly defines what constitutes an illicit discharge and what steps shall be taken to identify and eliminate its source. In many circumstances, sources of intermittent, illicit discharges are very difficult to locate, and these cases may remain unresolved. The permit requires that each case be conducted in accordance with the procedures developed to locate the source and conclude the investigation, after which the case may be considered closed. These procedures should be completed per the Progressive Enforcement Policy identified in Part VI.D.2 of this Order and should include enforcement as necessary to ensure the elimination of the illicit discharge/connection.

Illicit discharges may also originate in upstream jurisdictions and therefore this Order establishes procedures for communicating with upstream entities and providing information that may prove helpful in their investigation of its source(s).

If a Permittee is unable to eliminate an ongoing illicit discharge following full execution of its legal authority and in accordance with its Progressive Enforcement Policy, or other circumstances prevent the full elimination of an ongoing illicit discharge, including the inability to find the responsible party/parties, the Permittee shall require diversion of the entire flow to the sanitary sewer or treatment. In either instance, the Permittee shall notify the Regional Water Board in writing within 30 days of such determination and shall provide a written plan for review and comment that describes the efforts that have been undertaken to eliminate the illicit discharge, a description of the actions to be undertaken, anticipated costs, and a schedule for completion. The

goal of these requirements is to provide a permanent solution for ongoing illicit discharges.

c. Identification and Response to Illicit Connections

Illicit connections to the MS4 can lead to the direct discharge or infiltration of sewage or other prohibited discharges into the MS4. Permittees have been conducting illicit connection screening throughout the term of Order No. 01-182 and this Order requires a continuation of response efforts once an illicit connection is identified. This Order establishes unique obligations for the LACFCD and for the individual Permittees. The requirements for LACFCD are based on the unique obligations and infrastructure of a regional flood control district. Requirements for the individual Permittees require the investigation and follow-up of all illicit connections within 21 days of identification and elimination within 180 days.

d. Public Reporting of Non-Storm Water Discharges and Spills

Each Permittee needs to promote a program to help in the identification and termination of illicit discharges. This Order establishes requirements for the Permittees, individually or as a group, to develop public education campaigns and reporting numbers which are intended to promote public reporting of illicit discharges. Specifically, a stormwater hotline can be used to help permittees become aware of and mitigate spills or dumping incidents. Spills can include everything from an overturned gasoline tanker to sediment leaving a construction site to a sanitary sewer overflow entering into a storm drain. Permittees must set up a hotline consisting of any of the following (or combination thereof): a dedicated or non-dedicated phone line, E-mail address, or website.

This Order also requires development of written procedures for receiving and responding to calls from the public and for maintaining documentation about reported illicit discharges and spills and their investigation and remedy. These requirements are intended to ensure that reliable and consistent practices are deployed to address this persistent problem.

e. Spill Response Plan

Spills, leaks, sanitary sewer overflows, and illicit dumping or discharges can introduce a range of stormwater pollutants into the storm system. Prompt response to these occurrences is the best way to prevent or reduce negative impacts to waterbodies. The permittee must develop a spill response plan that includes an investigation procedure similar to or in conjunction with the investigation procedures developed for illicit discharges in general. Often, a different entity might be responsible for spill response in a community (i.e. fire department), therefore, it is imperative that adequate communication exists between stormwater and spill response staff to ensure that spills are documented and investigated in a timely manner.

f. Illicit Connection and Illicit Discharge Education and Training

The permit requires each Permittee to train field staff, who may come into contact or observe illicit discharges, on the identification and proper procedures for reporting illicit discharges. Field staff to be trained may include, but are not limited to, municipal maintenance staff, inspectors, and other staff whose job responsibilities regularly take them out of the office and into areas within the MS4 area. Permittee field staff are out in the community every day and are in the best position to locate and report spills, illicit discharges, and potentially polluting activities. With proper training and information on reporting illicit discharges easily accessible, these field staff can greatly expand the reach of the IDDE program.

10. Los Angeles County Flood Control District Section

Due to the unique characteristics of the Los Angeles County Flood Control District, a Minimum Control Measure Section unique to the Los Angeles County Flood Control District was included in the Order. Unlike other Permittees, the LACFCD does not own or operate any municipal sanitary sewer systems, public streets, roads, or highways. Additionally, The LACFCD has no planning, zoning, development permitting or other land use authority over industrial or commercial facilities, new developments or re-development projects, or development construction sites located in any incorporated or unincorporated areas within its service area. The Permittees that have such land use authority are responsible for implementing a storm water management program to inspect and control pollutants from industrial and commercial facilities, new development and re-development projects, and development construction sites within their jurisdictional boundaries. The requirements included in the Section are the same as those for other Permittees, but requirements that are not applicable due to the unique characteristic of the Los Angeles County Flood Control District were eliminated.

D. Total Maximum Daily Load Provisions

Clean Water Act section 303(d)(1)(A) requires each State to conduct a biennial assessment of its waters, and identify those waters that are not achieving water quality standards. These waters are identified as impaired on the State's Clean Water Act section "303(d) List" of water quality limited segments. The Clean Water Act also requires States to establish a priority ranking for waters on the 303(d) List and to develop and implement Total Maximum Daily Loads (TMDLs) for these waters. A TMDL specifies the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards, and allocates the acceptable pollutant load to point and nonpoint sources. The elements of a TMDL are described in 40 CFR sections 130.2 and 130.7. A TMDL is defined as "the sum of the individual waste load allocations for point sources and load allocations for nonpoint sources and natural background" (40 CFR § 130.2). Regulations further require that TMDLs must be set at "levels necessary to attain and maintain the applicable narrative and numeric water quality standards with seasonal variations and a margin of safety that takes into account any lack of knowledge concerning the relationship between effluent limitations and

water quality" (40 CFR section 130.7(c)(1)). The regulations at 40 CFR section 130.7 also state that TMDLs shall take into account critical conditions for stream flow, loading and water quality parameters. Essentially, TMDLs serve as a backstop provision of the CWA designed to implement water quality standards when other provisions have failed to achieve water quality standards.

Upon establishment of TMDLs by the State or the USEPA, the State is required to incorporate, or reference, the TMDLs in the State Water Quality Management Plan (40 CFR sections 130.6(c)(1) and 130.7). The Regional Water Board's Basin Plan, and applicable statewide plans, serves as the State Water Quality Management Plan governing the watersheds under the jurisdiction of the Regional Water Board. When adopting TMDLs as part of its Basin Plan, the Regional Water Board includes, as part of the TMDL, a program for implementation of the WLAs for point sources and load allocations (LAs) for nonpoint sources.

TMDLs are not self-executing, but instead rely upon further Board orders to impose pollutant restrictions on discharges to achieve the TMDL's WLAs. Section 402(p)(3)(B)(iii) of the Clean Water Act requires the Regional Water Board to impose permit conditions, including: "management practices, control techniques and system, design and engineering methods, and *such other provisions as the Administrator of the State determines appropriate for the control of such pollutants*." (emphasis added.) Section 402(a)(1) of the Clean Water Act also requires states to issue permits with conditions necessary to carry out the provisions of the Clean Water Act. Federal regulations also require that NPDES permits must include conditions consistent with the assumptions and requirements of any available waste load allocation (40 CFR section 122.44(d)(1)(vii)(B)). Similarly, state law requires both that the Regional Water Board implement its Basin Plan when adopting waste discharge requirements (WDRs) and that NPDES permits apply "any more stringent effluent standards or limitations necessary to implement water quality control plans…" (Cal. Wat. Code §§ 13263, 13377).

An NPDES permit should incorporate the WLAs as numeric WQBELs, where feasible. Where a non-numeric permit limitation is selected, such as BMPs, the permit's administrative record must support the expectation that the BMPs are sufficient to achieve the WLAs. (40 CFR §§ 124.8, 124.9, and 124.18.) The USEPA has published guidance for establishing WLAs for storm water discharges in TMDLs and their incorporation as numeric WQBELs in MS4 permits.[41]

As required, permit conditions are included in this Order consistent with the assumptions and requirements of the available WLAs assigned to MS4 discharges, which have been established in thirty-three TMDLs. The Regional Water Board adopted twenty-five (25) TMDLs and USEPA established seven (7) TMDLs that assign WLAs to MS4 Permittees within the County of Los Angeles. In addition, the Santa Ana Regional Water Board adopted a TMDL that assigns WLAs to the Cities of Pomona and

[41] USEPA (2010) "Revisions to the November 22, 2002 Memorandum 'Establishing Total Maximum Daily Load (TMDL) Wasteload Allocations (WLAs) for Storm Water Sources and NPDES Permit Requirements Based on Those TMDLs'." Issued by James A. Hanlon, Director, Office of Wastewater Management and Denise Keehner, Director, Office of Wetlands, Oceans and Watersheds. November 12, 2010.

Claremont. The TMDLs included in this Order along with the adoption and approval dates are listed in the table below. Permit conditions for two of these TMDLs – the Marina del Rey Harbor Bacteria TMDL and the Los Angeles River Watershed Trash TMDL – were previously incorporated into Order No. 01-182 during re-openers in 2007 and 2009, respectively (Orders R4-2007-0042 and R4-2009-0130). TMDLs are typically developed on a watershed or subwatershed basis, which facilitates a more accurate assessment of cumulative impacts of pollutants from all sources. An overview of each Watershed Management Area, including the TMDLs applicable to it, is provided below.

TMDLs with Resolution Numbers, Adoption Dates and Effective Dates

TOTAL MAXIMUM DAILY LOAD	RESOLUTION NUMBER	ADOPTION DATE	STATE BOARD RESOLUTION NUMBER	STATE BOARD APPROVAL DATE	OAL APPROVAL DATE	EPA APPROVAL DATE	EFFECTIVE DATE
Santa Clara River Watershed Management Area							
Santa Clara River Nitrogen Compounds TMDL	2003-011	8/7/2003	2003-0073	11/19/2003	2/27/2004	3/18/2004	3/23/2004
Upper Santa Clara River Chloride TMDL	2008-012	12/11/2008	2009-0077	10/20/2009	1/26/2010	4/6/2010	4/6/2010
Lake Elizabeth, Munz Lake, and Lake Hughes Trash TMDL (Lake Elizabeth only)	2007-009	6/7/2007	2007-0073	12/4/2007	2/8/2008	2/27/2008	3/6/2008
Santa Clara River Estuary and Reaches 3, 5, 6, and 7 Indicator Bacteria TMDL	R10-006	7/8/2010	2011-0048	10/4/2011	12/19/2011	1/13/2012	3/21/2012
Santa Monica Bay Watershed Management Area							
Santa Monica Bay Beaches Bacteria TMDL (Dry Weather)	2002-004	1/24/2002	2002-0149	9/19/2002	12/9/2002	6/19/2003	7/15/2003
Santa Monica Bay Beaches Bacteria TMDL (Wet Weather)	2002-022	12/12/2002	2003-0022	3/19/2003	5/20/2003	6/19/2003	7/15/2003
Santa Monica Bay Nearshore and Offshore Debris TMDL	R10-010	11/4/2010	2011-0064	12/6/2011	3/15/2012	3/20/2012	3/20/2012
Santa Monica Bay TMDL for DDTs and PCBs (USEPA established)	N/A	N/A	N/A	N/A	N/A	3/26/2012	N/A
Malibu Creek Subwatershed							
Malibu Creek and Lagoon Bacteria TMDL	2004-019R	12/13/2004	2005-0072	9/22/2005	12/1/2005	1/10/2006	1/24/2006
Malibu Creek Watershed Trash TMDL	2008-007	5/1/2008	2009-0029	3/17/2009	6/16/2009	6/26/2009	7/7/2009
Malibu Creek Watershed Nutrients TMDL (USEPA established)	N/A	N/A	N/A	N/A	N/A	3/21/2003	N/A
Ballona Creek Subwatershed							
Ballona Creek Trash TMDL	2004-023	3/4/2004	2004-0059	9/30/2004	2/8/2005	N/A	8/11/2005
Ballona Creek Estuary Toxic Pollutants TMDL	2005-008	7/7/2005	2005-0076	10/20/2005	12/15/2005	12/22/2005	1/11/2006
Ballona Creek, Ballona Estuary and Sepulveda Channel Bacteria TMDL	2006-011	6/8/2006	2006-0092	11/15/2006	2/20/2007	3/26/2007	4/27/2007
Ballona Creek Metals TMDL	2007-015	9/6/2007	2008-0045	6/17/2008	10/6/2008	10/29/2008	10/29/2008

TOTAL MAXIMUM DAILY LOAD	RESOLUTION NUMBER	ADOPTION DATE	STATE BOARD RESOLUTION NUMBER	STATE BOARD APPROVAL DATE	OAL APPROVAL DATE	EPA APPROVAL DATE	EFFECTIVE DATE
Ballona Creek Wetlands TMDL for Sediment and Invasive Exotic Vegetation (USEPA established)	N/A	N/A	N/A	N/A	N/A	3/26/2012	N/A
Marina del Rey Subwatershed							
Marina del Rey Harbor Mothers' Beach and Back Basins Bacteria TMDL	2003-012	8/7/2003	2003-0072	11/19/2003	1/30/2004	3/18/2004	3/18/2004
Marina del Rey Harbor Toxic Pollutants TMDL	2005-012	10/6/2005	2006-0006	1/13/2006	3/13/2006	3/16/2006	3/22/2006
Dominguez Channel and Greater Harbors Waters Watershed Management Area							
Los Angeles Harbor Bacteria TMDL (Inner Cabrillo Beach and Main Ship Channel)	2004-011	7/1/2004	2004-0071	10/21/2004	1/5/2005	3/1/2005	3/10/2005
Machado Lake Trash TMDL	2007-006	6/7/2007	2007-0075	12/4/2007	2/8/2008	2/27/2008	3/6/2008
Machado Lake Nutrient TMDL	2008-006	5/1/2008	2008-0089	12/2/2008	2/19/2009	3/11/2009	3/11/2009
Machado Lake Pesticides and PCBs TMDL	R10-008	9/2/2010	2011-0065	12/6/2011	2/29/2012	3/20/2012	3/20/2012
Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters Toxic Pollutants TMDL	R11-008	5/5/2011	2012-0008	2/7/2012	3/21/2012	3/23/2012	3/23/2012
Los Angeles River Watershed Management Area							
Los Angeles River Watershed Trash TMDL	2007-012	8/9/2007	2008-0024	4/15/2008	7/1/2008	7/24/2008	9/23/2008
Los Angeles River Nitrogen Compounds and Related Effects TMDL	2003-016	12/4/2003	2004-0014	3/24/2004	9/27/2004	N/A	9/27/2004
Los Angeles River and Tributaries Metals TMDL	R10-003	5/6/2010	2011-0021	4/19/2011	7/28/2011	11/3/2011	11/3/2011
Los Angeles River Bacteria TMDL	R10-007	7/9/2010	2011-0056	11/1/2011	3/21/2012	3/23/2012	3/23/2012
Legg Lake Trash TMDL	2007-010	6/7/2007	2007-0074	12/4/2007	2/5/2008	2/27/2008	3/6/2008
Long Beach City Beaches and Los Angeles River Estuary Bacteria TMDL (USEPA established)	N/A	N/A	N/A	N/A	N/A	3/26/2012	N/A

TOTAL MAXIMUM DAILY LOAD	RESOLUTION NUMBER	ADOPTION DATE	STATE BOARD RESOLUTION NUMBER	STATE BOARD APPROVAL DATE	OAL APPROVAL DATE	EPA APPROVAL DATE	EFFECTIVE DATE
Los Angeles Area Lakes TMDLs (USEPA established for Lake Calabasas, Echo Park Lake, Legg Lake and Peck Road Park Lake)	N/A	N/A	N/A	N/A	N/A	3/26/2012	N/A
San Gabriel River Watershed Management Area							
San Gabriel River and Impaired Tributaries Metals and Selenium TMDL (USEPA established)	N/A	N/A	N/A	N/A	N/A	3/26/2007	N/A
Los Angeles Area Lakes TMDLs (USEPA established for Puddingstone Reservoir)	N/A	N/A	N/A	N/A	N/A	3/26/2012	N/A
Los Cerritos Channel and Alamitos Bay Watershed Management Area							
Los Cerritos Channel Metals TMDL (USEPA established)	N/A	N/A	N/A	N/A	N/A	3/17/2010	N/A
Colorado Lagoon OC Pesticides, PCBs, Sediment Toxicity, PAHs, and Metals TMDL	R09-005	10/1/2009	2010-0056	11/16/2010	5/6/2011	6/14/2011	7/28/2011
Middle Santa Ana River Watershed Management Area (Santa Ana Region TMDL)							
Middle Santa Ana River Watershed Bacterial Indicator TMDLs	R8-2005-0001	8/26/2005	2006-0030	5/15/2006	9/1/2006	5/16/2007	5/16/2007

Santa Clara River Watershed Management Area. The Santa Clara River and its tributaries drain a watershed area of 1,634 square miles (sq. miles) (Figure B-1). Santa Clara River Reaches 1, 2, 3, 4A, 4B and major tributaries Santa Paula, Sespe and Piru Creeks are in Ventura County. Santa Clara River Reaches 5, 6, 7, 8 and major tributaries Castaic, San Francisquito, and Bouquet Canyon Creeks are in Los Angeles County. About 40% of the watershed, the Upper Santa Clara River, is located in County of Los Angeles. Approximately, 75% of the Upper Santa Clara River watershed is open space used for recreation in the Angeles National Forest. The remainder of the upper portion of the watershed is characterized by a mixture of residential, mixed urban, and industrial land uses with low density residential more common in the uppermost areas of the watershed, while high density residential is more prevalent in the City of Santa Clarita.

Various reaches of the Santa Clara River are on the 2010 CWA Section 303(d) List of impaired water bodies for nitrogen, bacteria, chloride, and trash (in lakes), among other pollutants. The excess nitrogen compounds are causing impairments to the WARM, WILD, and GWR designated beneficial uses of the Santa Clara River in Reaches 3, 7 and 8. The elevated bacterial indicator densities are causing impairment of the REC-1 and REC-2 designated beneficial uses for the Santa Clara River Estuary and Reaches 3, 5, 6, and 7. The excessive levels of chloride are impairing the AGR and GWR designated beneficial uses of the Upper Santa Clara River Reaches 4A, 4B, 5 and 6. The trash in Lake Elizabeth is causing impairments to the WARM, WILD, RARE, REC-1 and REC-2 designated beneficial uses.

TMDLs have been adopted by the Regional Water Board to address the impairments due to nitrogen, bacteria and chloride in the Upper Santa Clara River Watershed and for trash in Lake Elizabeth. Each of these TMDLs identifies MS4 discharges as a source of pollutants and assigns allocations to MS4 discharges. In the nitrogen compounds TMDL, storm water discharges were identified as potentially contributing nitrogen loads. Data from land use monitoring conducting under the LA County MS4 Permit from 1994-1999 indicate some concentrations of ammonia from commercial land uses in excess of the 30-day average concentration based WLA of 1.75 mg/l, and potential concentrations of nitrate-N and nitrite-N from residential land uses in excess of the WLA of 6.8 mg/l. Recent data from the 2010-11 annual monitoring report indicate low levels of ammonia and nitrite at the mass emissions station (S29) in the Santa Clara River, and concentrations of nitrate-N ranging from 1.38-1.66 mg/l in dry weather and 0.015-1.86 mg/l in wet weather. In the chloride TMDL, major point sources are assigned a WLA of 100 mg/l. Data from land use monitoring conducted under the LA County MS4 Permit from 1994-99 indicate chloride concentrations ranging from 3.2-48 mg/l, while more recent data from the mass emissions station (S29) indicate concentrations ranging from 116-126 mg/l in dry weather, and 25.1-96.3 mg/l in wet weather. For the bacteria TMDL, the Regional Water Board found that the significant contributors of bacteria loading to the Santa Clara River are discharges of storm water and non-storm water from the MS4. For the trash TMDL, discharges from the MS4 are sources of trash discharged to Lake Elizabeth.

Santa Monica Bay Watershed Management Area. The Santa Monica Bay Watershed Management Area (WMA) encompasses an area of 414 sq. miles (Figure B-2). Its

borders reach from the crest of the Santa Monica Mountains on the north and from the Ventura-Los Angeles County line to downtown Los Angeles. From there it extends south and west across the Los Angeles plain to include the area east of Ballona Creek and north of the Baldwin Hills. A narrow strip of land between Playa del Rey and Palos Verdes drains to the Bay south of Ballona Creek. The WMA includes several subwatersheds, the two largest being Malibu Creek to the north (west) and Ballona Creek to the south. SCAG land use data from 2005 shows 62% of the area is open space, high density residential is 17% of the area, and low density residential is 2.3% of the area. Commercial and industrial land uses total 6% of the area and are found in all but a handful of the subwatersheds.

Many of the Santa Monica Bay beaches were identified on the 1998 CWA Section 303(d) List of impaired water bodies for high coliform counts and beach closures. Santa Monica Bay offshore and nearshore is on the 2010 CWA Section 303(d) List of impaired water bodies for debris, DDTs, PCBs and sediment toxicity. The elevated bacterial indicator densities during both dry and wet weather are causing impairments of the REC-1 and REC-2 designated beneficial uses of the Santa Monica Bay beaches. The debris and elevated concentrations of DDT and PCBs are causing impairments to the IND, NAV, REC-1, REC-2, COMM, EST, MAR, BIOL, MIGR, WILD, RARE, SPWN, SHELL, and WET designated beneficial uses of the Santa Monica Bay.

TMDLs have been adopted by the Regional Water Board and USEPA for bacteria at Santa Monica Bay Beaches, and for debris, DDTs, PCBs and sediment toxicity in Santa Monica Bay. In the bacteria TMDL, the Regional Water Board determined that discharges of storm water and non-storm water from the MS4 are the primary source of elevated bacterial indicator densities to Santa Monica Bay beaches during dry and wet weather. In the debris TMDL, the Regional Water Board determined that most of the land-based debris is discharged to the marine environment through the MS4. In the DDT and PCBs TMDL, USEPA determined that although DDT is no longer used, it persists in the environment, adhering strongly to soil particles. The manufacture of PCBs is no longer legal, but PCBs also persist in the environment and are inadvertently produced as a result of some manufacturing processes. Both DDT and PCBs are transported in contaminated sediments via urban runoff through the MS4 to Santa Monica Bay.

The Malibu Creek subwatershed drains an area of about 109 square miles (Figure B-2a). Approximately two-thirds of this subwatershed lies in Los Angeles County and the remaining third in Ventura County. Much of the land is part of the Santa Monica Mountains National Recreation Area and is under the purview of the National Parks Service. The watershed borders the eastern portion of Ventura County to the west and north and Los Angeles River watershed to the east. Major tributaries include Cold Creek, Lindero Creek, Las Virgenes Creek, Medea Creek, and Triunfo Creek. Located at the end of and receiving flows from Malibu Creek is the 40-acre Malibu Lagoon. The Malibu Creek subwatershed land uses are 88% open space, 3% commercial/light industry, 9% residential and less than 1% public.

The Malibu Creek Watershed is on the 2010 CWA Section 303(d) List of impaired water bodies for bacteria, nutrients, and trash. Elevated bacterial indicator densities are

causing impairment of the REC-1 and REC-2 designated beneficial uses of Malibu Creek, Malibu Lagoon, and the adjacent beaches. Excess nutrients are causing impairments to the REC-1, REC-2, WARM, COLD, EST, MAR, WILD, RARE, MIGR, and SPWN designated beneficial uses of waterbodies in the Malibu Creek Watershed. Trash is causing impairments to the MUN, GWR, REC-1, REC-2, WARM, COLD, MIGR, WILD, RARE, SPWN, and WET designated beneficial uses of the waterbodies in the Malibu Creek Watershed.

TMDLs have been adopted by the Regional Water Board for bacteria and trash in Malibu Creek. USEPA established a TMDL for nutrients in Malibu Creek. Fecal coliform bacteria may be introduced from a variety of sources including storm water and non-storm water discharges from the MS4. USEPA determined that high nitrogen and phosphorus loadings are associated with storm water discharges from commercial and residential land uses and also from undeveloped areas. During the summer non-storm water discharges add a significant portion of the load. The Regional Water Board determined in the trash TMDL that discharges from the MS4 are a source of trash to waterbodies in the Malibu Creek Watershed.

Ballona Creek and its tributaries drain a subwatershed of about 127 square miles (Figure B-2b). The watershed boundary extends in the east from the crest of the Santa Monica Mountains southward and westward to the vicinity of central Los Angeles and thence to Baldwin Hills. Tributaries of Ballona Creek include Centinela Creek, Sepulveda Canyon Channel, Benedict Canyon Channel, and numerous other storm drains. Ballona Creek is concrete lined upstream of Centinela Boulevard. All of its tributaries are either concrete channels or covered culverts. The channel downstream of Centinela Boulevard is trapezoidal composed of grouted rip-rap side slopes and an earth bottom. The urbanized areas of Ballona Creek, which consists of residential and commercial properties, accounts for 80% of the watershed; the partially developed foothill and mountains make up the other 20%.

Ballona Creek and Ballona Creek Estuary is on the 2010 CWA Section 303(d) List for trash, toxicity, bacteria, and metals. The Ballona Creek Wetlands is on the 2010 CWA Section 303(d) List for trash, exotic vegetation, habitat alterations and hydromodification. Trash is causing impairments to the REC-1, REC-2, WARM, WILD, EST, MAR, RARE, MIGR, SPWN, COMM, WET, and COLD designated beneficial uses of Ballona Creek. A suite of toxic pollutants, including cadmium, copper, lead, silver, zinc, chlordane, DDT, PCBs, and PAHs in sediments and dissolved copper, dissolved lead, total selenium, and dissolved zinc, are causing impairments to the REC-1, REC-2, EST, MAR, WILD, RARE, MIGR, SPWN, COMM, and SHELL designated beneficial uses of Ballona Creek Estuary and Ballona Creek and Sepulveda Channel, respectively. The elevated bacterial indicator densities are causing impairment of the REC-1, LREC-1, and REC-2 designated beneficial uses of Ballona Creek and Ballona Estuary. The excess sediment and invasive exotic vegetation is causing impairments to the EST, MIGR, RARE, REC-1, REC-2, SPWN, WET, and WILD designated beneficial uses of the Ballona Creek Wetlands.

TMDLs have been adopted by the Regional Water Board for trash, metals and toxic pollutants in Ballona Creek and Estuary, and bacteria. USEPA established a TMDL for

Sediment and Invasive Exotic Vegetation in the Ballona Creek Wetlands. Stormwater discharge is the major source of trash in Ballona Creek. Urban storm water has been recognized as a substantial source of metals. Storm drains convey a large percentage of the metals loadings during dry weather because although their flows are typically low, concentrations of metals in urban runoff may be quite high. Because metals are typically associated with fine particles in storm water runoff, they have the potential to accumulate in estuarine sediments where they may pose a risk of toxicity. Similar to metals, the majority of organic constituents in storm water are associated with particulates. There is toxicity associated with suspended solids in urban runoff discharged from Ballona Creek, as well as with the receiving water sediments. This toxicity is likely attributed to metals and organics associated with the suspended sediments. The major contributors of flows and associated bacteria loading to Ballona Creek and Ballona Estuary are storm water and non-storm water discharges from the MS4. The potential for sediment loading into the Ballona Creek Wetlands is associated with the flow coming down the watershed. Sediment moves from the watershed through the MS4 as a result of storms, wind and land based runoff. Major storms usually take place in winter and are responsible for major movements of sediment down the watershed into Ballona Creek and Ballona Wetland towards the coastal waterbodies. These activities can lead to discharge of large quantities of sediments in runoff.

The Marina del Rey subwatershed is approximately 2.9 square miles located adjacent to the mouth of Ballona Creek. The Marina del Rey subwatershed is highly developed at 80%, the remaining 20% is split between water and open/recreation land uses.

Marina del Rey is on the 2010 CWA Section 303(d) List for bacteria and sediment concentrations of copper, lead, zinc, DDT, PCBs, chlordane, and sediment toxicity. The elevated bacterial indicator densities are causing impairment of the REC-1 and REC-2 designated beneficial uses at Marina del Rey Harbor Mothers' Beach and back basins. The toxic pollutants are causing impairments to the REC-1, MAR, WILD, COMM, and SHELL designated beneficial uses of the Marina del Rey Harbor.

TMDLs have been adopted by the Regional Water Board for bacteria and toxic pollutants. Non-storm water and storm water discharges from the MS4 are the primary sources of elevated bacterial indicator densities to Marina del Rey Harbor Mothers' Beach and back basins during dry and wet weather. Urban storm water has been recognized as a substantial source of metals. Numerous researchers have documented that the most prevalent metals in urban storm water (i.e., copper, lead, and zinc) are consistently associated with suspended solids. Because metals are typically associated with fine particles in storm water runoff, they have the potential to accumulate in marine sediments where they may pose a risk of toxicity. Similar to metals, the majority of organic constituents in storm water are associated with particulates.

On June 7, 2012, the Regional Water Board adopted revised Basin Plan Amendments (BPAs) for the Santa Monica Bay Beaches Bacteria TMDL; the Malibu Creek and Lagoon Bacteria TMDL; the Ballona Creek, Ballona Estuary, and Sepulveda Channel Bacteria TMDL; and the Marina del Rey Harbor Mothers' Beach and Back Basins Bacteria TMDL. In the revised TMDLs the method of calculating the geometric mean was changed from the existing methods in the current Bacteria TMDLs and the

allowable winter dry weather exceedance days was redefined. Although, the revised BPAs are not in effect until approved by the State Board, OAL and USEPA these changes have been included in the Permit and will become effective upon the effective dates of the revised Bacteria TMDLs.

Dominguez Channel and Greater Harbor Waters Watershed Management Area. The Dominguez Channel and Los Angeles/Long Beach Harbors Watershed Management Area (Dominguez WMA) is located in the southern portion of the Los Angeles Basin (Figure B-3). Los Angeles Harbor is 7,500 acres and the Long Beach Harbor is 7,600 acres; together they have an open water area of approximately 8,128 acres. The 15 mile-long Dominguez Channel drains a densely urbanized area to Inner Los Angeles Harbor. Near the end of the 19th century and during the beginning of the next century, channels were dredged, marshes were filled, wharves were constructed, the Los Angeles River was diverted, and breakwaters were constructed in order to allow deep draft ships to be directly offloaded at the docks. The Dominguez Slough was completely channelized and became the drainage endpoint for runoff from a highly industrialized area. Eventually, the greater San Pedro Bay was enclosed by two more breakwaters and deep entrance channels were dredged to allow for entry of ships.

Various reaches of the Dominguez WMA are on the 2010 CWA Section 303(d) List of impaired water bodies for metals, DDT, PCBs, PAHs, historic pesticides, coliform, and sediment toxicity. The elevated bacteria indicator densities is causing impairments to the SHELL, REC-1, and REC-2 designated beneficial uses of Los Angeles Harbor. The elevated levels of metals and organics are causing impairments to beneficial uses designated in these waters to protect aquatic life, including MAR and RARE. In addition, the elevated levels are causing impairments in the estuaries, which are designated with SPWN, MIGR, and WILD beneficial uses. Dominguez Channel also has an existing designated use of WARM and the Los Angeles River Estuary has the designated use of WET. Beneficial uses associated with human use of these waters that are impaired due to the elevated concentrations of metals and organics include REC-1, REC-2, IND, NAV, COMM, and SHELL.

TMDLs have been adopted by the Regional Water Board for toxic pollutants in the Dominguez WMA and for bacteria at Inner Cabrillo Beach and the Main Ship Channel. Discharges from the MS4 are a source of elevated bacterial indicator densities to Inner Cabrillo Beach and the Main Ship Channel during dry and wet weather. The major point sources of organochlorine pesticides, PCBs, and metals into Dominguez Channel are storm water and non-storm water discharges. The contaminated sediments are a reservoir of historically deposited pollutants. Storm water runoff from manufacturing, military facilities, fish processing plants, wastewater treatment plants, oil production facilities, and shipbuilding or repair yards in both Ports have discharged untreated or partially treated wastes into Harbor waters. Current activities also contribute pollutants to Harbor sediments, in particular, storm water runoff.

On June 7, 2012, the Regional Water Board adopted a revised Basin Plan Amendment (BPA) for the Los Angeles Harbor Inner Cabrillo Beach and Main Ship Channel Bacteria TMDL. In the revised TMDL the method of calculating the geometric mean was changed from the existing methods in the current Bacteria TMDL and the allowable

winter dry weather exceedance days was redefined. Although, the revised BPA is not in effect until approved by the State Board, OAL and USEPA these changes have been included in the Permit and will become effective upon the effective date of the revised Bacteria TMDL.

Machado Lake is listed for trash, nutrients, PCBs and historic pesticides. Trash, nutrients and toxic pollutants are causing impairments to the WARM, WET, RARE, WILD, REC-1 and REC-2 designated beneficial uses of Machado Lake. TMDLs have been adopted by the Regional Water Board for trash, nutrients, PCBs and pesticides for Machado Lake. The point sources of trash and nutrients into Machado Lake are storm water and non-storm water discharges from the MS4. Storm water discharges occur through the following sub-drainage systems: Drain 553, Wilmington Drain, Project 77/510, and Walteria Lake.

Los Angeles River Watershed Management Area. The Los Angeles River Watershed Management Area (LAR WMA) drains a watershed of 824 square miles (Figure B-4). The LAR WMA is one of the largest in the Region and is also one of the most diverse in terms of land use patterns. Approximately 324 square miles of the watershed are covered by forest or open space land including the area near the headwaters, which originate in the Santa Monica, Santa Susana, and San Gabriel Mountains. The remainder of the watershed is highly developed. The river flows through the San Fernando Valley past heavily developed residential and commercial areas. From the Arroyo Seco, north of downtown Los Angeles, to the confluence with the Rio Hondo, the river flows through industrial and commercial areas and is bordered by rail yards, freeways, and major commercial and government buildings. From the Rio Hondo to the Pacific Ocean, the river flows through industrial, residential, and commercial areas, including major refineries and petroleum products storage facilities, major freeways, rail lines, and rail yards serving the Ports of Los Angeles and Long Beach. Due to major flood events at the beginning of the century, by the 1950s most of the LA River was lined with concrete. In the San Fernando Valley, there is a section of the river with a soft bottom at the Sepulveda Flood Control Basin. At the eastern end of the San Fernando Valley, the river bends around the Hollywood Hills and flows through Griffith and Elysian Parks, in an area known as the Glendale Narrows. Since the water table was too high to allow laying of concrete, the river in this area has a rocky, unlined bottom with concrete-lined or rip-rap sides. South of the Glendale Narrows, the river is contained in a concrete-lined channel down to Willow Street in Long Beach. The LA River tidal prism/estuary begins in Long Beach at Willow Street and runs approximately three miles before joining with Queensway Bay. The channel has a soft bottom in this reach with concrete-lined sides. A number of lakes are also part of the LAR WMA, including Legg Lake, Peck Road Park, Belvedere Park, Hollenbeck Park, Lincoln Park, and Echo Park Lakes as well as Lake Calabasas.

Various reaches and lakes within the LAR WMA are on the 2010 CWA Section 303(d) List of impaired water bodies for trash, nitrogen compounds and related effects (ammonia, nitrate, nitrite, algae, pH, odor, and scum), metals (copper, cadmium, lead, zinc, aluminum and selenium), bacteria, and historic pesticides. Beneficial uses impaired by trash in the Los Angeles River are REC-1, REC-2, WARM, WILD, EST, MAR, RARE, MIGR, SPWN, COMM, WET and COLD. The excess nitrogen compounds

are causing impairments to the WARM and WILD designated beneficial uses of Los Angeles River. Excess metals are causing impairments to the WILD, RARE, WARM, WET, and GWR designated beneficial uses of the Los Angeles River and its tributaries. Elevated indicator bacteria densities are causing impairments to the REC-1 and REC-2 designated beneficial uses of Los Angeles River and the Los Angeles River Estuary. Beneficial uses impaired by trash in Legg Lake include REC1, REC2, and WILD.

TMDLs have been adopted by the Regional Water Board for trash, nitrogen, metals, and bacteria in the Los Angeles River. USEPA established TMDLs for bacteria in the Los Angeles River Estuary and for various pollutants in Los Angeles Area Lakes. The Los Angeles River Watershed Trash TMDL identifies discharges from the municipal separate storm sewer system as the principal source of trash to the Los Angeles River and its tributaries. The Regional Water Board determined that urban runoff and storm water may contribute to nitrate loads. Discharges from the MS4 contribute a large percentage of the metals loadings during dry weather because although non-storm water flows from the MS4 are typically low relative to other discharges during dry weather, concentrations of metals in urban runoff may be quite high. During wet weather, most of the metals loadings are in the particulate form and are associated with wet-weather storm water flow. On an annual basis, storm water discharges from the MS4 contribute about 40% of the cadmium loading, 80% of the copper loading, 95% of the lead loading, and 90% of the zinc loading. Discharges from the MS4 are the principal source of bacteria to the Los Angeles River, its tributaries and the Los Angeles River Estuary in both dry weather and wet weather.

A TMDL has been adopted by the Regional Water Board for trash in Legg Lake. The Legg Lake Trash TMDL identifies MS4 storm drains as the principal point source for trash discharged to Legg Lake.

The Los Angeles Water Board identified 10 lakes in the Los Angeles region as impaired by algae, ammonia, chlordane, copper, DDT, eutrophication, lead, organic enrichment/low dissolved oxygen, mercury, odor, PCBs, pH and/or trash and placed them on California's 303(d) list of impaired waters. For several lakes, USEPA concluded that ammonia, pH, copper and/or lead are currently meeting water quality standards and TMDLs are not required at this time. In other lakes, recent chlordane and dieldrin data indicate additional impairment. Associated with this WMA are: Lake Calabasas TMDLs for total nitrogen and total phosphorus; Echo Park Lake TMDLs for nutrients (total nitrogen and total phosphorus), total chlordane, dieldrin, total PCBs, and trash; Legg Lake TMDLs for total nitrogen and total phosphorus; and Peck Road Park Lake TMDLs for nutrients (total nitrogen and total phosphorus), total chlordane, total DDT, dieldrin, total PCBs, and trash.

In Lake Calabasas beneficial uses impaired by elevated levels of nutrients include REC1, REC2, and WARM. At high enough concentrations, WILD and MUN uses could also become impaired. MS4 discharges from the surrounding watershed to Lake Calabasas during dry and wet weather contributes 97.7 percent of the total phosphorus load and 74.4 percent of the total nitrogen load.

In Echo Park Lake beneficial uses impaired by elevated levels of nutrients, PCBs, chlordane, and dieldrin are currently impairing the REC1, REC2, and WARM uses. At high enough concentrations WILD and MUN uses could also become impaired. Beneficial uses impaired by trash in Echo Park Lake include REC1, REC2, WARM and WILD. The Echo Park Lake nutrient TMDL found that MS4 discharges from the northern and southern watershed to Echo Lake contribute 29 percent of the total phosphorus load and 28 percent of the total nitrogen load during wet weather with dry weather loading data unavailable due to the majority of runoff being diverted downstream of the lake. PCBs, chlordane, and dieldrin in Echo Park Lake are primarily due to historical loading and storage within the lake sediments, with some ongoing contribution by watershed wet weather loads. Dry weather loading is assumed to be negligible because hydrophobic contaminants primarily move with particulate matter that is mobilized by higher flows. Storm water loads from the watershed were estimated based on simulated sediment load and observed pollutant concentrations on sediment near inflows to the lake. MS4 discharges via storm drains are the principal point source for trash in Echo Park Lake.

In Legg Lake beneficial uses impaired due to elevated nutrient levels include REC1, REC2, WARM and COLD. At high enough concentrations the WILD, MUN, and GWR uses could also become impaired. The Legg Lake nutrient TMDL found that MS4 discharges from the surrounding watershed to Legg Lake during dry and wet weather contributes 69.1 percent of the total phosphorus load and 36 percent of the total nitrogen load.

In Peck Road Park Lake beneficial uses impaired by elevated levels of nutrients, PCBs, chlordane, DDT, dieldrin, and trash are currently impairing the REC1, REC2, and WARM uses. At high enough concentrations WILD and MUN uses could also become impaired. The Peck Road Park Lake nutrient TMDL found that MS4 discharges from the surrounding watershed including both wet and dry weather contribute 80.2 percent of the total phosphorus load and 55.5 percent of the total nitrogen load. PCBs, chlordane, DDT, and dieldrin in Peck Road Park Lake loads are primarily due to historical loading and storage within the lake sediments, with some ongoing contribution by watershed wet weather loads. Dry weather loading is assumed to be negligible because hydrophobic contaminants primarily move with particulate matter that is mobilized by higher flows. Stormwater loads from the watershed were estimated based on simulated sediment load and observed pollutant concentrations on sediment near inflows to the lake. MS4 discharges via storm drains are the principal point source for trash in Peck Road Park Lake.

San Gabriel River Watershed Management Area. The San Gabriel River Watershed (SGR WMA) receives drainage from a 689-square mile area of eastern Los Angeles County (Figure B-5). The main channel of the San Gabriel River is approximately 58 miles long. Its headwaters originate in the San Gabriel Mountains with the East, West, and North Forks. The river empties to the Pacific Ocean at the Los Angeles and Orange Counties boundary in Long Beach. The main tributaries of the river are Big and Little Dalton Wash, San Dimas Wash, Walnut Creek, San Jose Creek, Fullerton Creek, and Coyote Creek. Part of the Coyote Creek subwatershed is in Orange County and is under the authority of the Santa Ana Water Board. A number of lakes and reservoirs

are also part of the SGR WMA, including Puddingstone Reservoir. Land use in the watershed is diverse and ranges from predominantly open space in the upper watershed to urban land uses in the middle and lower parts of the watershed.

Various reaches of the SGR WMA are on the 2010 CWA Section 303(d) List of impaired water bodies due to trash, nitrogen, phosphorus, and metals (copper, lead, selenium, and zinc). USEPA established TMDLs for metals and selenium in the San Gabriel River and various pollutants in Los Angeles Area Lakes. Segments of the San Gabriel River and its tributaries exceed water quality objectives for copper, lead, selenium, and zinc. Metals loadings to San Gabriel River are causing impairments of the WILD, WARM, COLD, RARE, EST, MAR, MIGR, SPWN, WET, MUN, IND, AGR, GWR, and PROC beneficial uses. The San Gabriel River metals and selenium TMDL found that the MS4 contributes a large percentage of the metals loadings during dry weather because although their flows are typically low, concentrations of metals in urban runoff may be quite high. During wet weather, most of the metals loadings are in the particulate form and are associated with wet-weather storm water flow.

The Regional Water Board identified 10 lakes in the Los Angeles Region as impaired by algae, ammonia, chlordane, copper, DDT, eutrophication, lead, organic enrichment/low dissolved oxygen, mercury, odor, PCBs, pH and/or trash and placed them on California's 303(d) list of impaired waters. For several lakes, USEPA concluded that ammonia, pH, copper and/or lead are currently meeting water quality standards and TMDLs are not required at this time. In other lakes, recent chlordane and dieldrin data indicate additional impairment. Associated with this WMA is: Puddingstone Reservoir TMDLs for total nitrogen, total phosphorus, total chlordane, total DDT, total PCBs, total mercury, and dieldrin.

In Puddingstone Reservoir beneficial uses impaired due to elevated nutrient, mercury, PCBs, chlordane, dieldrin, and DDT levels include REC1, REC2, WARM, and COLD. At high enough concentrations the WILD, MUN, GWR, and RARE uses could also become impaired. The Puddingstone Reservoir nutrients TMDL found that MS4 discharges from the surrounding watershed to Puddingstone Reservoir during dry and wet weather contributes 79.8 percent of the total phosphorus and 74.1 percent of the total nitrogen load. Mercury, PCBs, chlordane, dieldrin, and DDT in Puddingstone Reservoir loads are primarily due to historical loading and storage within the lake sediments, with some ongoing contribution by watershed wet weather loads. Dry weather loading is assumed to be negligible because hydrophobic contaminants primarily move with particulate matter that is mobilized by higher flows. Stormwater loads from the watershed were estimated based on simulated sediment load and observed pollutant concentrations on sediment near inflows to the lake.

Los Cerritos Channel and Alamitos Bay Watershed Management Area. The Los Cerritos Channel is concrete-lined above the tidal prism and drains a small but densely urbanized area of east Long Beach (Figure B-6). The channel's tidal prism starts at Anaheim Road and connects with Alamitos Bay through the Marine Stadium; the wetlands connect to the Channel a short distance from the lower end of the Channel. Alamitos Bay is composed of the Marine Stadium, a recreation facility built in 1932; Long Beach Marina; a variety of public and private berths; and the Bay proper. A small

bathing lagoon, Colorado Lagoon located entirely in Long Beach, has a tidal connection with the Bay. The majority of land use in this WMA is high density residential.

Los Cerritos Channel is on the 2010 CWA Section 303(d) List of impaired water bodies for metals (copper, zinc, and lead). Beneficial uses impaired by metals in the Los Cerritos Channel include WILD, REC2 and WARM. USEPA established a TMDL for various metals in Los Cerritos Channel. The TMDL for metals in Los Cerritos Channel found that the MS4 contributes a large percentage of the metals loadings during dry weather because although their flows are typically low, concentrations of metals in urban runoff may be quite high. During wet weather, most of the metals loadings are in the particulate form and are associated with wet-weather storm water flow.

Middle Santa Ana River Watershed Management Area. The Middle Santa Ana River Watershed Management Area (MSAR WMA) covers approximately 488 square miles (mi^2) and lies mostly in San Bernardino and Riverside Counties; however, a small part of Los Angeles County is also included. The area of Los Angeles County, which lays in the MSAR WMA, includes portions of the Cities of Pomona (12.3 mi^2), Claremont (8.4 mi^2), and Diamond Bar (0.7 mi^2) and unincorporated Los Angeles County (12.3 mi^2) (Figure B-7). The MSAR WMA is comprised of three subwatersheds. The subwatershed that includes portions of Pomona and Claremont is the Chino Basin Subwatershed. Surface drainage from Pomona and Claremont is generally southward toward San Antonio Creek, which is tributary to Chino Creek, which feeds into the Prado Flood Control Basin.

Various reaches of the MSAR WMA, including Chino Creek, are listed on 2010 CWA Section 303(d) List for bacteria. Elevated bacterial indicator densities are causing impairments of the REC-1 and REC-2 designated beneficial for the Santa Ana River Reach 3; Chino Creek Reaches 1 and 2; Mill Creek (Prado Area); Cucamonga Creek Reach 1; and Prado Park Lake.

The Santa Ana Water Board adopted TMDLs for bacteria for the Middle Santa Ana River Watershed. The Basin Plan amendment incorporating the Middle Santa Ana River Watershed Bacterial Indicator TMDLs was approved by the Santa Ana Water Board on August 26, 2005 (Resolution No. R8-2005-0001), by the State Water Board on May 15, 2006, by the Office of Administrative Law on September 1, 2006, and by the USEPA on May 16, 2007. The TMDL was effective on May 16, 2007. The Santa Ana Water Board concluded based upon data and information collected in 1993, 1996-1998 and in 2002-2004, that urban runoff from the MS4 is a significant source of bacterial indicators year round to the Middle Santa Ana River and its tributaries (Rice, 2005). The TMDL specifies both dry weather and wet weather WLAs, with distinct implementation schedules. Compliance with the summer dry (April 1st through October 31st) WLAs is to be achieved as soon as possible, but no later than December 31, 2015. In recognition of the difficulties associated with the control of storm water discharges, compliance with the winter wet (November 1st through March 31st) WLAs is to be achieved as soon as possible, but no later than December 31, 2025. The MS4 permit allows for discharges of bacteria from the MS4s of the Cities of Claremont and Pomona to be regulated to ensure compliance with the wasteload allocations set forth in the Middle Santa Ana Bacterial Indicator TMDL and with the corresponding receiving water limitations by the

terms of an NPDES permit issued by the Santa Ana Regional Water Quality Control Board that is applicable to such MS4 discharges. The NPDES permit must be issued pursuant to a designation agreement between the Los Angeles and Santa Ana Regional Boards under Water Code § 13228. In the absence of such an NPDES permit, the MS4 permit includes specific provisions in Attachment R that are consistent with the assumptions and requirements of the wasteload allocations applicable to MS4 discharges as set forth in the Middle Santa Ana Bacterial Indicator TMDL.

Calleguas Creek Watershed Management Area. Calleguas Creek and its tributaries drain a watershed area of 343 square miles (sq. miles) in southern Ventura County and a small portion of western Los Angeles County. Approximately, 4.16 sq. miles of Los Angeles County is part of the Calleguas Creek Watershed. The land use of the 4.15 sq. miles is open space and recreation. The land use of the remaining 0.01 sq. miles is divided between low density residential, industrial, and agriculture (Southern California Association of Governments, 2008). Six TMDLs have been adopted and are in effect for the Calleguas Creek Watershed. None of the TMDLs assign waste load allocations to the Los Angeles County Flood Control District, County of Los Angeles or any incorporated city within Los Angeles County. Therefore, no water quality based effluent limitations were incorporated in this Order for TMDLs in the Calleguas Creek Watershed.

Manner of Incorporation of TMDL WLAs. The description of the permit conditions and the basis for the manner for incorporating requirements to implement the TMDLs' WLAs is discussed below.

WLAs may be expressed in different ways in a TMDL. In general, a WLA is expressed as a discharge condition that must be achieved in order to ensure that water quality standards are attained in the receiving water. The discharge condition may be expressed in terms of mass or concentration of a pollutant. However, in some cases, a WLA may be expressed as a receiving water condition such as an allowable number of exceedance days of the bacteria objectives.

In this Order, in most cases, TMDL WLAs have been translated into numeric WQBELs and, where consistent with the expression of the WLA in the TMDL, also as receiving water limitations. For each TMDL included in this Order, the WLA were translated into numeric WQBELs, which were based on the WLAs in terms of the numeric value and averaging period. For those TMDLs where the averaging period was not specific for the WLA, the averaging period was based on the averaging period for the numeric target.

For the bacteria TMDLs, where the WLA are expressed as an allowable number of exceedance days in the water body, the WLAs were translated into receiving water limitations. In addition to the receiving water limitations, WQBELs were established based on the bacteria water quality objectives. In the bacteria TMDLs, the numeric targets are based on the multi-part bacteriological water quality objectives; therefore, this approach is consistent with the assumptions of the bacteria TMDLs.

In the Ballona Creek Trash TMDL, the default baseline WLA for the MS4 Permittees is equal to 640 gallons (86 cubic feet) of uncompressed trash per square mile per year.

No differentiation is applied for different land uses in the default baseline WLA. The default baseline WLAs for the Permittees has been refined based on results from the baseline monitoring conducted by the City of Los Angeles. The City of Los Angeles provided trash generation flux data for five land uses: commercial, industrial, high density residential, low density residential and open space and recreation. The Baseline WLA for any single city is the sum of the products of each land use area multiplied by the WLA for the land use area, as shown below:

WLA = ∑ for each city (area by land uses x allocations for this land use)

The baseline was calculated using the City of Los Angeles trash generation flux data provided for the 2003-04 and 2004-05 storm years averaged for pounds of trash per acre and the 2003-04 storm year for gallons of trash per acre. The urban portion of the Ballona Creek watershed was divided into twelve types of land uses for every city and unincorporated area in the watershed. The land use categories are: (1) high density residential, (2) low density residential, (3) commercial and services, (4) industrial, (5) public facilities, (6) educational institutions, (7) military installations, (8) transportation, (9) mixed urban, (10) open space and recreation, (11) agriculture, and (12) water. The land use data used in the calculation is based on the Southern California Association of Governments 2005 data.

1. Compliance Determination

For TMDLs that establish individual mass-based WLAs or a concentration-based WLA such as the Trash TMDLs, Nitrogen TMDLs, and Chloride TMDL, this Order requires Permittees to demonstrate compliance with their assigned WQBELs individually.

A number of the TMDLs for Bacteria, Metals and Toxics establish WLAs that are assigned jointly to a group of Permittees whose storm water and/or non-storm water discharges are or may be commingled in the MS4 prior to discharge to the receiving water subject to the TMDL. TMDLs address commingled MS4 discharges by assigning a WLA to a group of MS4 Permittees based on co-location within the same subwatershed. Permittees with co-mingled storm water are jointly responsible for meeting the WQBELs and receiving water limitations assigned to MS4 discharges in this Order. "Joint responsibility" means that the Permittees that have commingled MS4 discharges are responsible for implementing programs in their respective jurisdictions, or within the MS4 for which they are an owner or operator, to meet the WQBELs and/or receiving water limitations assigned to such commingled MS4 discharges.

In these cases, federal regulations state that co-permittees need only comply with permit conditions relating to discharges from the MS4 for which they are owners or operators. (40 CFR § 122.26(a)(3)(vi).) Individual co-permittees are only responsible for their contributions to the commingled discharge. This Order does not require a Permittee to individually ensure that a commingled MS4 discharge meets the applicable WQBELs included in this Order, unless such Permittee is shown to be solely responsible for the exceedances.

Additionally, this Order allows a Permittee to clarify and distinguish their individual contributions and demonstrate that its MS4 discharge did not cause or contribute to exceedances of applicable WQBELs and/or receiving water limitations. In this case, though the Permittee's discharge may commingle with that of other Permittees, the Permittee would not be held jointly responsible for the exceedance of the WQBELs or receiving water limitation.

Individual co-permittees who demonstrate compliance with the WQBELs will not be held responsible for violations by non-compliant co-permittees.

Demonstrating Compliance with Interim Limitations. This Order provides Permittees with several means of demonstrating compliance with applicable interim WQBELs and interim receiving water limitations for the pollutant(s) associated with a specific TMDL. These include any of the following:

a. There are no violations of the interim WQBELs for the pollutant(s) associated with a specific TMDL at the Permittee's applicable MS4 outfall(s) or access points,[42] including an outfall to the receiving water that collects discharges from multiple Permittees' jurisdictions;

b. There are no exceedances of the applicable receiving water limitation for the pollutant(s) associated with a specific TMDL in the receiving water(s) at, or downstream of, the Permittee's outfall(s);

c. There is no direct or indirect discharge from the Permittee's MS4 to the receiving water during the time period subject to the WQBEL and/or receiving water limitation for the pollutant(s) associated with a specific TMDL; or

d. The Permittee has submitted and is fully implementing an approved Watershed Management Program or Enhanced Watershed Management Program (EWMP), which includes analyses that provide the Regional Water Board with reasonable assurance that the watershed control measures proposed will achieve the applicable WQBELs and receiving water limitations consistent with relevant compliance schedules.

Demonstrating Compliance with Final Limitations. This Order provides Permittees with three general means of demonstrating compliance with an applicable *final* WQBEL and *final* receiving water limitation for the pollutant(s) associated with a specific TMDL.

These include any of the following:

a. There are no violations of the final WQBEL for the specific pollutant at the Permittee's applicable MS4 outfall(s)[43];

[42] An access point may include a manhole or other point of access to the MS4 at the Permittee's jurisdictional boundary.
[43] Ibid.

b. There are no exceedances of applicable receiving water limitation for the specific pollutant in the receiving water(s) at, or downstream of, the Permittee's outfall(s);

c. There is no direct or indirect discharge from the Permittee's MS4 to the receiving water during the time period subject to the WQBEL and/or receiving water limitation for the pollutant(s) associated with a specific TMDL; or

d. In drainage areas where Permittees are implementing an EWMP, (i) all non-storm water and (ii) all storm water runoff up to and including the volume equivalent to the 85th percentile, 24-hour event is retained for the drainage area tributary to the applicable receiving water. This compliance mechanism does not apply to final trash WQBELs.

This Order provides the opportunity for Permittees to demonstrate compliance with *interim* effluent limitations through development and implementation of a Watershed Management Program or EWMP, where Permittees have provided a reasonable demonstration through quantitative analysis (i.e., modeling or other approach) that the control measures/BMPs to be implemented will achieve the interim effluent limitations in accordance with the schedule provided in this Order. It is premature to consider application of this action based compliance demonstration option to the final effluent limitations and final receiving water limitations that have deadlines outside the term of this Order. More data is needed to validate assumptions and model results regarding the linkage among BMP implementation, the quality of MS4 discharges, and receiving water quality.

During the term of this Order, there are very few deadlines for compliance with final effluent limitations applicable to storm water, or final receiving water limitations applicable during wet weather conditions. Most deadlines during the term of this Order are for interim effluent limitations applicable to storm water, or for final effluent limitations applicable to non-storm water discharges and final dry weather receiving water limitations.

There are only five State-adopted TMDLs for which the compliance deadlines for final water quality-based effluent limitations applicable to storm water occur during the term of this Order. These include: Santa Clara River Chloride TMDL, Santa Clara River Nitrogen TMDL, Los Angeles River Nitrogen TMDL, Marina del Rey Harbor Toxics TMDL, and LA Harbor Bacteria TMDL. In most of these five TMDLs, compliance with the final water quality-based effluent limitations assigned to MS4 discharges is expected to be achieved (e.g., Santa Clara River Chloride TMDL[44]), or a mechanism is in place to potentially allow additional time to come into compliance (e.g. reconsideration of the Marina del Rey Harbor Toxics TMDL implementation schedule).

The Regional Water Board will evaluate the effectiveness of this action-based compliance determination approach in ensuring that interim effluent limitations for

[44] Data from land use monitoring conducted under the LA County MS4 Permit from 1994-99 indicate chloride concentrations ranging from 3.2-48 mg/L, while more recent data from the mass emissions station in the Santa Clara River (S29) indicate concentrations ranging from 116-126 mg/l in dry weather, and 25.1-96.3 mg/l in wet weather, suggesting that storm water has a diluting effect on chloride concentrations in the receiving water.

storm water are achieved during this permit term. If this approach is effective in achieving compliance with interim effluent limitations for storm water during this permit term, the Regional Water Board will consider during the next permit cycle whether it would be appropriate to allow a similar approach for demonstrating compliance with final water quality-based effluent limitations applicable to storm water. The Order includes a specific provision to support reopening the permit to include provisions or modifications to WQBELs in Part VI.E and Attachments L-R in this Order prior to the final compliance deadlines, if practicable, that would allow an action-based, BMP compliance demonstration approach with regard to final WQBELs for storm water discharges based on the Regional Board's review of relevant research, including but not limited to data and information provided by Permittees, on storm water quality and control technologies

2. Compliance Schedules for Achieving TMDL Requirements

A Regional Water Board may include a compliance schedule in an NPDES permit when the state's water quality standards or regulations include a provision that authorizes such schedules in NPDES permits.[45] In California, TMDL implementation plans[46] are typically adopted through Basin Plan Amendments. The TMDL implementation plan, which is part of the Basin Plan Amendment, becomes a regulation upon approval by the State of California Office of Administrative Law (OAL).[47] Pursuant to California Water Code sections 13240 and 13242, TMDL implementation plans adopted by the Regional Water Board "shall include … a time schedule for the actions to be taken [for achieving water quality objectives]," which allows for compliance schedules in future permits. This Basin Plan Amendment becomes the applicable regulation that authorizes an MS4 permit to include a compliance schedule to achieve effluent limitations derived from wasteload allocations.

Where a TMDL implementation schedule has been established through a Basin Plan Amendment, it is incorporated into this Order as a compliance schedule to achieve interim and final WQBELs and corresponding receiving water limitations, in accordance with 40 CFR section 122.47. WQBELs must be consistent with the assumptions and requirements of any WLA, which includes applicable implementation schedules.[48] California Water Code sections 13263 and 13377 state that waste discharge requirements must implement the Basin Plan.[49] Therefore,

[45] See *In re Star-Kist Caribe, Inc.*, (Apr. 16, 1990) 3 E.A.D. 172, 175, modification denied, 4 E.A.D. 33, 34 (EAB 1992).

[46] TMDL implementation plans consist of those measures, along with a schedule for their implementation, that the Water Boards determine are necessary to correct an impairment. The NPDES implementation measures are thus required by sections 303(d) and 402(p)(3)(B)(iii) of the CWA. State law also requires the Water Boards to implement basin plan requirements. (See Wat. Code §§ 13263, 13377; *State Water Resources Control Board Cases* (2006) 136 Cal.App.4th 189.)

[47] See Gov. Code, § 11353, subd. (b). Every amendment to a Basin Plan, such as a TMDL and its implementation plan, requires approval by the State Water Board and OAL. When the TMDL and implementation plan is approved by OAL, it becomes a state regulation.

[48] See 40 C.F.R. § 122.44(d)(1)(vii)(B).

[49] Cal. Wat. Code, § 13263, subd. (a) ("requirements shall implement any relevant water quality control plans that have been adopted"); Cal. Wat. Code, § 13377 ("the state board or the regional boards shall . . . issue waste discharge requirements and dredged or fill material permits which apply and ensure compliance with all applicable provisions of the [CWA], thereto, together with any more stringent effluent standards or limitations necessary to implement waste quality control plans, or for

compliance schedules for attaining WQBELs derived from WLAs must be based on a state-adopted TMDL implementation plan and cannot exceed the maximum time that the implementation plan allows.

In determining the compliance schedules, the Regional Water Board considered numerous factors to ensure that the schedules are as short as possible. Factors examined include, but are not limited to, the size and complexity of the watershed; the pollutants being addressed; the number of responsible agencies involved; time for Co-Permittees to negotiate memorandum of agreements; development of water quality management plans; identification of funding sources; determination of an implementation strategy based on the recommendations of water quality management plans and/or special studies; and time for the implementation strategies to yield measurable results. Compliance schedules may be altered based on the monitoring and reporting results as set forth in the individual TMDLs.

In many ways, the incorporation of interim and final WQBELs and associated compliance schedules is consistent with the iterative process of implementing BMPs that has been employed in the previous Los Angeles County MS4 Permits in that progress toward compliance with the final effluent limitations may occur over the course of many years. However, because the waterbodies in Los Angeles County are impaired due to MS4 discharges, it is necessary to establish more specific provisions in order to: (i) ensure measurable reductions in pollutant discharges from the MS4, resulting in progressive water quality improvements during the iterative process, and (ii) establish a final date for completing implementation of BMPs and, ultimately, achieving effluent limitations and water quality standards.

The compliance schedules established in this Order are consistent with the implementation plans established in the individual TMDLs. The compliance dates for meeting the final WQBELs and receiving water limitations for each TMDL are listed below in Table F-7.

the protection of beneficial uses, or to prevent nuisance"); *see also, State Water Resources Control Board Cases* (2006) 136 Cal.App.4th 189.

Table F-7. Compliance Schedule for final compliance dates.

TOTAL MAXIMUM DAILY LOADS (TMDL)	Final Compliance date has Passed	Final Compliance date within 5 years (2012-2017)	Final Compliance date between 5 and 10 years (2018-2022)	Final Compliance date after 10 years (2023)
Santa Clara River Nitrogen Compounds TMDL	March 23, 2004			
Upper Santa Clara River Chloride TMDL	April 6, 2010			
Lake Elizabeth, Munz Lake, and Lake Hughes Trash TMDL (Lake Elizabeth only)		March 6, 2016		
Santa Clara River Estuary and Reaches 3, 5, 6, and 7 Indicator Bacteria TMDL				
Dry Weather				March 21, 2023
Wet Weather				March 21, 2029
Santa Monica Bay Beaches Bacteria TMDL				
Summer Dry Weather	July 15, 2006			
Winter Dry Weather	July 15, 2009			
Wet Weather			July 15, 2021	
Santa Monica Bay Nearshore and Offshore Debris TMDL			March 20, 2020	
Santa Monica Bay TMDL for DDTs and PCBs (USEPA established)		March 26, 2012		
Malibu Creek and Lagoon Bacteria TMDL				
Summer Dry Weather	January 24, 2009			
Winter Dry Weather	January 24, 2012			
Wet Weather			July 15, 2021	
Malibu Creek Watershed Trash TMDL		July 7, 2017		
Malibu Creek Watershed Nutrients TMDL (USEPA established)	March 21, 2003			
Ballona Creek Trash TMDL		September 30, 2015		
Ballona Creek Estuary Toxic Pollutants TMDL			January 11, 2021	
Ballona Creek, Ballona Estuary and Sepulveda Channel Bacteria TMDL				
Dry Weather		April 27, 2013		
Wet Weather			July 15, 2021	
Ballona Creek Metals TMDL				

TOTAL MAXIMUM DAILY LOADS (TMDL)	Final Compliance date has Passed	Final Compliance date within 5 years (2012-2017)	Final Compliance date between 5 and 10 years (2018-2022)	Final Compliance date after 10 years (2023)
Dry Weather		January 11, 2016		
Wet Weather			January 11, 2021	
Ballona Creek Wetlands TMDL for Sediment and Invasive Exotic Vegetation (USEPA established)		March 26, 2012		
Marina del Rey Harbor Mothers' Beach and Back Basins Bacteria TMDL				
Dry Weather	March 18, 2007			
Wet Weather			July 15, 2021	
Marina del Rey Harbor Toxic Pollutants TMDL		March 22, 2016	March 22, 2021*	
Los Angeles Harbor Bacteria TMDL	March 10, 2010			
Machado Lake Trash TMDL		March 6, 2016		
Machado Lake Nutrient TMDL			September 11, 2018	
Machado Lake Pesticides and PCBs TMDL			September 30, 2019	
Dominguez Channel and Greater LA and LB Harbor Waters Toxic Pollutants TMDL				March 23, 2032
Los Angeles River Watershed Trash TMDL		September 30, 2016		
Los Angeles River Nitrogen Compounds and Related Effects TMDL	March 23, 2004			
Los Angeles River and Tributaries Metals TMDL				
Dry Weather				January 11, 2024
Wet Weather				January 11, 2028
Los Angeles River Watershed Bacteria TMDL				
Dry Weather (Compliance dates range from 10 to 25 years)			March 23, 2022	March 23, 2037
Wet Weather				March 23, 2037
Legg Lake Trash TMDL		March 6, 2016		
Long Beach City Beaches and Los Angeles River Estuary Bacteria TMDL (USEPA established)		March 26, 2012		

TOTAL MAXIMUM DAILY LOADS (TMDL)	Final Compliance date has Passed	Final Compliance date within 5 years (2012-2017)	Final Compliance date between 5 and 10 years (2018-2022)	Final Compliance date after 10 years (2023)
Los Angeles Area Lakes TMDLs (USEPA established)		March 26, 2012		
San Gabriel River and Impaired Tributaries Metals and Selenium TMDL (USEPA established)	March 26, 2007			
Los Cerritos Channel Metals TMDL (USEPA established)	March 17, 2010			
Colorado Lagoon OC Pesticides, PCBs, Sediment Toxicity, PAHs, and Metals TMDL			July 28, 2018	
Middle Santa Ana River Watershed Bacterial Indicator TMDLs				
Dry Weather		December 31, 2015		
Wet Weather				December 31, 2025

* If an Integrated Water Resources Approach is approved and implemented then Permittees have an extended compliance deadline.

3. State Adopted TMDLs with Past Final Compliance Deadlines

In accordance with federal regulations, this Order includes WQBELs necessary to achieve applicable wasteload allocations assigned to MS4 discharges. In some cases, the deadline specified in the TMDL implementation plan for achieving the final wasteload allocation has passed. (See Table F-8) This Order requires that Permittees comply immediately with WQBELs and/or receiving water limitations for which final compliance deadlines have passed.

Table F-8. State-Adopted TMDLs with Past Final Implementation Deadlines

TOTAL MAXIMUM DAILY LOADS (TMDL)	Final Compliance date has Passed
Santa Clara River Nitrogen Compounds TMDL	March 23, 2004
Upper Santa Clara River Chloride TMDL	April 6, 2010
Santa Monica Bay Beaches Bacteria TMDL *Summer Dry Weather only*	July 15, 2006
Santa Monica Bay Beaches Bacteria TMDL *Winter Dry Weather only*	July 15, 2009
Malibu Creek and Lagoon Bacteria TMDL *Summer Dry Weather only*	January 24, 2009
Malibu Creek and Lagoon Bacteria TMDL *Winter Dry Weather only*	January 24, 2012
Marina del Rey Harbor Mothers' Beach and Back Basins Bacteria TMDL *Dry Weather Year-round only*	March 18, 2007
Los Angeles Harbor Bacteria TMDL	March 10, 2010
Los Angeles River Nitrogen Compounds and Related Effects TMDL	March 23, 2004

Where a Permittee determines that its MS4 discharge may not meet the final WQBELs for the TMDLs in Table F-8 upon adoption of this Order, the Permittee may request a time schedule order (TSO) from the Regional Water Board. TSOs are issued pursuant to California Water Code section 13300, whenever a Water Board "finds that a discharge of waste is taking place or threatening to take place that violates or will violate [Regional Water Board] requirements." Permittees may individually request a TSO, or may jointly request a TSO with all Permittees subject to the WQBELs and/or receiving water limitations. Permittees must request a TSO to achieve WQBELs for the TMDLs in Table F-8 no later than 45 days after the date this Order is adopted.

In the request, the Permittee(s) must include, at a minimum, the following:

a. Location specific data demonstrating the current quality of the MS4 discharge(s) in terms of concentration and/or load of the target pollutant(s) to the receiving waters subject to the TMDL;
b. A detailed description and chronology of structural controls and source control efforts, including location(s) of implementation, since the effective date of the TMDL, to reduce the pollutant load in the MS4 discharges to the receiving waters subject to the TMDL;
c. A list of discharge locations for which additional time is needed to achieve the water quality based effluent limitations and/or receiving water limitations;
d. Justification of the need for additional time to achieve the water quality-based effluent limitations and/or receiving water limitations for each location identified in Part VI.E.3.c, above;

e. A detailed time schedule of specific actions the Permittee will take in order to achieve the water quality-based effluent limitations and/or receiving water limitations at each location identified in Part VI.E.3.c, above;

f. A demonstration that the time schedule requested is as short as possible, consistent with California Water Code section 13385(j)(3)(C)(i), taking into account the technological, operation, and economic factors that affect the design, development, and implementation of the control measures that are necessary to comply with the effluent limitation(s); and

g. If the requested time schedule exceeds one year, the proposed schedule shall include interim requirements and the date(s) for their achievement. The interim requirements shall include both of the following:

i. Effluent limitation(s) for the pollutant(s) of concern; and

ii. Actions and milestones leading to compliance with the effluent limitation(s).

The Regional Water Board does not intend to take enforcement action against a Permittee for violations of specific WQBELs and corresponding receiving water limitations for which the final compliance deadline has passed if a Permittee is fully complying with the requirements of a TSO to resolve exceedances of the WQBELs for the specific pollutant(s) in the MS4 discharge.

4. USEPA Established TMDLs

USEPA has established seven TMDLs that include wasteload allocations for MS4 discharges covered by this Order (See Table F-9). Five TMDLs were established since 2010, one in 2007, and one in 2003.

Table F-9. USEPA Established TMDLs with WLAs Assigned to MS4 Discharges

TOTAL MAXIMUM DAILY LOADS (TMDL)	Effective Date
Santa Monica Bay TMDL for DDTs and PCBs (USEPA established)	March 26, 2012
Ballona Creek Wetlands TMDL for Sediment and Invasive Exotic Vegetation (USEPA established)	March 26, 2012
Long Beach City Beaches and Los Angeles River Estuary Bacteria TMDL (USEPA established)	March 26, 2012
Los Angeles Area Lakes TMDLs (USEPA established)	March 26, 2012
Los Cerritos Channel Metals TMDL (USEPA established)	March 17, 2010
San Gabriel River and Impaired Tributaries Metals and Selenium TMDL (USEPA established)	March 26, 2007
Malibu Creek Watershed Nutrients TMDL (USEPA established)	March 21, 2003

In contrast to State-adopted TMDLs, USEPA established TMDLs do not contain an implementation plan or schedule. The Clean Water Act does not allow USEPA to either adopt implementation plans or establish compliance schedules for TMDLs that is establishes. Such decisions are generally left with the States. The Regional Water Board could either (1) adopt a separate implementation plan as a Basin Plan Amendment for each USEPA established TMDL, which would allow inclusion of compliance schedules in the permit where applicable, or (2) issue a Permittee a schedule leading to full compliance in a separate enforcement order (such as a Time Schedule Order or a Cease and Desist Order). To date, the Board has not adopted a

separate implementation plan or enforcement order for any of these TMDLs. As such, the final WLAs in the seven USEPA established TMDLs identified above become effective immediately upon establishment by USEPA and placement in a NPDES permit.

The Regional Water Board's decision as to how to express permit conditions for USEPA established TMDLs is based on an analysis of several specific facts and circumstances surrounding these TMDLs and their incorporation into this Order. First, since these TMDLs do not include implementation plans, none of these TMDLs have undergone a comprehensive evaluation of implementation strategies or an evaluation of the time required to fully implement control measures to achieve the final WLAs. Second, given the lack of an evaluation, the Regional Water Board is not able to adequately assess whether Permittees will be able to immediately comply with the WLAs at this time. Third, the majority of these TMDLs were established by USEPA recently (i.e., since 2010) and permittees have had limited time to plan for and implement control measures to achieve compliance with the WLAs. Lastly, while federal regulations do not allow USEPA to establish implementation plans and schedules for achieving these WLAs, USEPA has nevertheless included implementation recommendations regarding MS4 discharges as part of six of the seven of these TMDLs. The Regional Water Board needs time to adequately evaluate USEPA's recommendations. For the reasons above, the Regional Water Board has determined that numeric water quality based effluent limitations for these USEPA established TMDLs are infeasible at the present time. The Regional Water Board may at its discretion revisit this decision within the term of the Order or in a future permit, as more information is developed to support the inclusion of numeric water quality based effluent limitations.

In lieu of inclusion of numeric water quality based effluent limitations at this time, this Order requires Permittees subject to WLAs in USEPA established TMDLs to propose and implement best management practices (BMPs) that will be effective in achieving the numeric WLAs. Permittees will propose these BMPs to the Regional Water Board in a Watershed Management Program Plan, which is subject to Regional Water Board Executive Officer approval. As part of this Plan, Permittees are also required to propose a schedule for implementing the BMPs that is as short as possible. The Regional Water Board finds that, at this time, it is reasonable to include permit conditions that require Permittees to develop specific Watershed Management Program plans that include interim milestones and schedules for actions to achieve the WLAs. These plans will facilitate a comprehensive planning process, including coordination among co-permittees where necessary, on a watershed basis to identify the most effective watershed control measures and implementation strategies to achieve the WLAs.

At a minimum, the Watershed Management Program Plan must include the following data and information relevant to the USEPA established TMDL:

i. Available data demonstrating the current quality of the MS4 discharge(s) in terms of concentration and/or load of the target pollutant(s) to the receiving waters subject to the TMDL;

ii. A detailed time schedule of specific actions the Permittee will take in order to achieve the WLA(s);

iii. A demonstration that the time schedule requested is as short as possible, taking into account the time since USEPA establishment of the TMDL, and technological, operation, and economic factors that affect the design, development, and implementation of the control measures that are necessary to comply with the WLA(s);

a. For the Malibu Creek Nutrient TMDL established by USEPA in 2003, in no case shall the time schedule to achieve the final numeric WLAs exceed five years from the effective date of this Order; and

iv. If the requested time schedule exceeds one year, the proposed schedule shall include interim requirements, including numeric milestones, and the date(s) for their achievement.

Each Permittee subject to a WLA in a TMDL established by USEPA must submit a draft of a Watershed Management Program Plan to the Regional Water Board Executive Officer per the timelines outlined for submittal of a Watershed Management Program or EWMP.

Based on the nature and timing of the proposed watershed control measures, the Regional Water Board will consider appropriate actions on its part, which may include: (1) no action and continued reliance on permit conditions that require implementation of the approved watershed control measures throughout the permit term; (2) adopting an implementation plan and corresponding schedule through the Basin Plan Amendment process and then incorporating water quality based effluent limitations and a compliance schedule into this Order consistent with the State-adopted implementation plan; or (3) issuing a time schedule order to provide the necessary time to fully implement the watershed control measures to achieve the WLAs.

If a Permittee chooses not to submit a Watershed Management Program Plan, or the plan is determined to be inadequate by the Regional Water Board Executive Officer and necessary revisions are not made within 90 days of written notification to the Permittee that that plan is inadequate, the Permittee will be required to demonstrate compliance with the numeric WLAs immediately based on monitoring data collected under the MRP (Attachment E) for this Order.

The Regional Water Board does not intend to take enforcement action against a Permittee for violations of specific WLAs and corresponding receiving water limitations for USEPA established TMDLs if a Permittee has developed and is implementing an approved Watershed Management Program to achieve the WLAs in the USEPA TMDL and the associated receiving water limitations.

E. Other Provisions

1. Legal Authority

Adequate legal authority is required to implement and enforce most parts of the Minimum Control Measures and all equivalent actions if implemented with a Watershed Management Program (See 40 CFR section 122.26(d)(2)(i)(A)-(F) and 40 CFR section 122.26(d)(2)(iv). Without adequate legal authority the MS4 would be unable to perform many vital functions such as performing inspections, requiring remedies, and requiring installation of control measures. In addition, the Permittee would not be able to penalize and/or attain remediation costs from violators.

2. Fiscal Resources

The annual fiscal analysis will show the allocated resources, expenditures, and staff resources necessary to comply with the permit, and implement and enforce the Permittee's Watershed Management Program (See 40 CFR section 122.26(d)(2)(vi). The annual analysis is necessary to show that the Permittee has adequate resources to meet all Permit Requirements. The analysis can also show year-to-year changes in funding for the storm water program. A summary of the annual analysis must be reported in the annual report. This report will help the Permitting Authority understand the resources that are dedicated to compliance with this permit, and to implementation and enforcement of the Watershed Management Program, and track how this changes over time. Furthermore, the inclusion of the requirement to perform a fiscal analysis annually is similar to requirements included in Order No. 01-182 permit as well as the current Ventura County MS4 permit.

3. Responsibilities of the Permittees

Because of the complexity and networking of the storm drain system and drainage facilities within and tributary to the LA MS4, the Regional Water Board adopted an area-wide approach in permitting storm water and urban runoff discharges. Order No. 01-182 was structured as a single permit whereby individual Permittees were assigned uniform requirements and additional requirements were assigned to the Principal Permittee (Los Angeles County Flood Control District). This permit does not designate a principal Permittee and as such requires each Permittee to implement provisions as a separate entity. Furthermore it does not hold a Permittee responsible for implementation of provisions applicable to other Permittees.

Part VI.A.4.a requires inter and intra-agency coordination to facilitate implementation of this Order. This requirement is based on 40 CFR section 122.26(d)(2)(iv) which requires "a comprehensive planning process which public participation and where necessary intergovernmental coordination, to reduce the discharge of pollutants to the maximum extent practicable […]."

4. Reopener and Modification Provisions

These provisions are based on 40 CFR sections 122.44, 122.62, 122.63, 122.64, 124.5, 125.62, and 125.64, and are also consistent with Order No. 01-182. The Regional Water Board may reopen the permit to modify permit conditions and requirements, as well as revoke, reissue, or terminate in accordance with federal regulations. Causes for such actions include, but are not limited to, endangerment to human health or the environment; acquisition of newly-obtained information that

would have justified the application of different conditions if known at the time of Order adoption; to incorporate provisions as a result of new federal or state laws, regulations, plans, or policies (including TMDLs and other Basin Plan amendments); modification in toxicity requirements; violation of any term or condition in this Order; and/or minor modifications to correct typographical errors or require more frequent monitoring or reporting by a Permittee. The Order also includes additional causes including: within 18 months of the effective date of a revised TMDL or as soon as practicable thereafter, where the revisions warrant a change to the provisions of this Order, the Regional Water Board may modify this Order consistent with the assumptions and requirements of the revised WLA(s), including the program of implementation; in consideration of any State Water Board action regarding the precedential language of State Water Board Order WQ 99-05; and to include provisions or modifications to WQBELs in Part VI.E and Attachments L-R in this Order prior to the final compliance deadlines, if practicable, that would allow an action-based, BMP compliance demonstration approach with regard to final WQBELs for storm water discharges based on the Regional Board's evaluation of whether Watershed Management Programs in Part VI.C. of the Order have resulted in attainment of interim WQBELs for storm water and review of relevant research, including but not limited to data and information provided by Permittees and other stakeholders, on storm water quality and the efficacy and reliability of control technologies.

VII. RATIONALE FOR MONITORING AND REPORTING REQUIREMENTS

Section 308(a) of the federal Clean Water Act, and sections 122.41(h), (j)-(l), 122.44(i), and 122.48 of Title 40 of the Code of Federal Regulations requires that all NPDES permits specify monitoring and reporting requirements. Federal regulations applicable to large and medium MS4s also specify additional monitoring and reporting requirements. (40 C.F.R. §§ 122.26(d)(2)(i)(F) & (d)(2)(iii)(D), 122.42(c).) California Water Code section 13383 further authorizes the Regional Water Board to establish monitoring, inspection, entry, reporting, and recordkeeping requirements. The MRP (Attachment E of this Order) establishes monitoring, reporting, and recordkeeping requirements that implement the federal and state laws and/or regulations. The following provides the rationale for the monitoring and reporting requirements contained in the MRP for this Order.

A. Integrated Monitoring Plans

1. Integrated Monitoring Program and Coordinated Integrated Monitoring Program

As discussed in Part VI.B of this Fact Sheet, the purpose of the Watershed Management Programs is to provide a framework for Permittees to implement the requirements of this Order in an integrated and collaborative fashion and to address water quality priorities on a watershed scale. Additionally, the Watershed Management Programs are to be designed to ensure that discharges from the Los Angeles County MS4: (i) achieve applicable water quality based effluent limitations that implement TMDLs, (ii) do not cause or contribute to exceedances of receiving water limitations, and (iii) for non-storm water discharges from the MS4, are not a

source of pollutants to receiving waters. This Order allows Permittees in coordination with an approved Watershed Management Program per Part VI.C, to implement a customized monitoring program with the primary objective of allowing for the customization of the outfall monitoring programs and that achieves the five Primary Objectives set forth in Part II.A. of Attachment E and includes the elements set forth in Part II.E. of Attachment E. If pursuing a customized monitoring program, the Permittees must provide sufficient justification for each element of the program that differs from the monitoring program as set forth in Attachment E of the Order. This Order provides options for each Permittee to individually develop and implement an Integrated Monitoring Program (IMP), or alternatively, Permittees may cooperate with other Permittees to develop a Coordinated Integrated Monitoring Program (CIMP). Both the IMP and CIMP are intended to facilitate the effective and collaborative monitoring of receiving waters, storm water, and non-storm water discharges and to report the results of monitoring to the Regional Water Board.

The key requirements for Watershed Management Programs are included in Part VI.C of this Order. The IMP and CIMP requirements within the MRP largely summarize the requirements and reinforce that, at a minimum, the IMP or CIMP must address all TMDL and Non-TMDL monitoring requirements of this Order, including receiving water monitoring, storm water outfall based monitoring, non-storm water outfall based monitoring, and regional water monitoring studies.

Both the IMP and CIMP approach provides opportunities to increase the cost efficiency and effectiveness of the Permittees monitoring program as monitoring can be designed, prioritized and implemented on a watershed basis. The IMP/CIMP approach allows the Permittees to prioritize monitoring resources between watersheds based on TMDL Implementation and Monitoring Plan schedules, coordinate outfall based monitoring programs and implement regional studies. Cost savings can also occur when Permittees coordinate their monitoring programs with other Permittees.

B. TMDL Monitoring Plans

Monitoring requirements established in TMDL Monitoring Plans, presented in Table E-1. Approved TMDL Monitoring Plans by Watershed Management Area, were approved by the Executive Officer of the Regional Water Board prior to the effective date of this Order are incorporated into this Order by reference.

C. Receiving Water Monitoring

The purposes of receiving water monitoring are to measure the effects of storm water and non-storm water discharges from the MS4 to the receiving water, to identify water quality exceedances, to evaluate compliance with TMDL WLAs and receiving water limitations, and to evaluate whether water quality is improving, staying the same or declining.

1. Receiving Water Monitoring Stations

Receiving water monitoring is linked to outfall based monitoring in order to gauge the effects of MS4 discharges on receiving water. Receiving water monitoring stations must be downstream of outfall monitoring stations.

The IMP, CIMP or stand-alone receiving monitoring plan (in the case of jurisdictional monitoring) must include a map identifying proposed wet weather and dry weather monitoring stations. Receiving water monitoring stations may include historical mass emission stations, TMDL compliance monitoring stations, and other selected stations. The Permittee must describe how monitoring at the proposed locations will accurately characterize the effects of the discharges from the MS4 on the receiving water, and meet other stated objectives. The plan must also state whether historical mass emission stations will continue to be monitored, and if not, provide sufficient justification for discontinuation of monitoring at the historical mass emissions stations, and describe the value of past receiving water monitoring data in performing trends analysis to assess whether water quality if improving, staying the same or declining.

2. Minimum Monitoring Requirements

Receiving water is to be monitored during both dry and wet weather conditions to assess the impact of non-storm water and storm water discharges. Wet weather and dry weather are defined in each watershed, consistent with the definitions in TMDLs approved within the watershed. Monitoring is to commence as soon as possible after linked outfall monitoring in order to be reflective of potential impacts from MS4 discharges. At a minimum, the parameters to be monitored and the monitoring frequency are the same as those required for the linked outfalls.

D. Outfall Based Monitoring

The MRP requires Permittees to conduct outfall monitoring, linked with receiving water monitoring, bioassessment monitoring and TMDL special studies. The MRP allows the Permittees flexibility to integrate the minimum requirements of this Order, applicable TMDL monitoring plans and other regional monitoring obligations into a single IMP or within a CIMP.

Per Part VII.A of the MRP, the Permittee must establish a map or geographic database of storm drains, channels and outfalls to aid in the development of the outfall monitoring plan and to assist the Regional Water Board in reviewing the logic and adequacy of the number and location of outfalls selected for monitoring. The map/database must include the storm drain network, receiving waters, other surface waters that may impact hydrology, including dams and dry weather diversions. In addition, the map must identify the location and identifying code for each major outfall within the Permittee's jurisdiction. The map must include overlays including jurisdictional boundaries, subwatershed boundaries and storm drain outfall catchment boundaries. The map must distinguish between storm drain catchment drainage areas and subwatershed drainage areas, as these may differ. In addition, the map must include overlays displaying land use, impervious area and effective impervious area (if available). To the extent known, outfalls that convey significant non-stormwater discharges (see Part I.F to this Fact Sheet), must also be identified on the map, and the map must be updated annually to

include the total list of known outfalls conveying significant flow of non-storm water discharge.

E. Storm Water Outfall Based Monitoring

The purpose of the outfall monitoring plan is to characterize the storm water discharges from each Permittee's drainages within each subwatershed. Outfall based monitoring is also conducted to assess compliance with WQBELs. Unless Permittees have proposed and received approval for a customized monitoring program as previously discussed, each Permittee must identify at least one outfall within each subwatershed (HUC 12) within its jurisdictional boundary to monitor storm water discharges. The selected outfall(s) should receive drainage from an area representative of the land uses within the portion of its jurisdiction that drains to the subwatershed, and not be unduly influenced by storm water discharges from upstream jurisdictions or other NPDES discharges. It is assumed that storm water runoff quality will be similar for similar land use areas, and therefore runoff from a representative area will provide sufficient characterization of the entire drainage area. Factors that may impact storm water runoff quality include the land use (industrial, residential, commercial) and the control measures that are applied. Factors that may impact storm water runoff volume include percent effective impervious cover (connected to the storm drain system), vegetation type, soil compaction and soil permeability.

Storm water outfall monitoring is linked to receiving water monitoring (see above). Monitoring must be conducted at least three times per year during qualifying rain events, including the first rain event of the year and conducted approximately concurrently (within 6 hours) before the commencement of the downstream receiving water monitoring.

Monitoring is conducted for pollutants of concern including all pollutants with assigned WQBELs. Parameters to be monitored during wet weather include: flow, pollutants subject to a TMDL applicable to the receiving water, pollutants listed on the Clean Water Act Section 303(d) list for the receiving water or a downstream receiving water. Flow is necessary to calculate pollutant loading. Sampling requirements, including methods for collecting flow-weighted composite samples, are consistent with the Ventura County Monitoring program (Order No. C17388).

For water bodies listed on the Clean Water Act section 303(d) list as being impaired due to sedimentation, siltation or turbidity, total suspended solids (TSS) and suspended sediment concentration (SSC) must be analyzed. TSS is the parameter most often required in NPDES permits to measure suspended solids. However, studies conducted by the United States Geological Survey (USGS) have found that the TSS procedure may not capture the full range of sediment particle sizes contributing to sediment impairments . Therefore both TSS and SSC are required in this Order.

For freshwater, the following field measurements are also required: hardness, pH, dissolved oxygen, temperature, and specific conductivity. Hardness, pH and temperature are parameters impacting the effect of pollutants in freshwater (i.e., metals water quality standards are dependent on hardness, ammonia toxicity is dependent on

pH and temperature. Temperature and dissolved oxygen are interdependent and fundamental to supporting aquatic life beneficial uses. Specific conductivity is a parameter important to assessing potential threats to MUN and freshwater aquatic life beneficial uses.

Aquatic toxicity monitoring is required in the receiving water twice per year during wet weather conditions. Aquatic toxicity is a direct measure of toxicity and integrates the effects of multiple synergistic effects of known and unidentified pollutants. When samples are found to be toxic, a Toxicity Identification Evaluation must be performed in an attempt to identify the pollutants causing toxicity. Aquatic toxicity is required to be monitored in the receiving water twice per year during wet-weather rather than three times per year due to the expense of the procedure.

The monitoring data is to be accompanied by rainfall data and hydrographs, and a narrative description of the storm event, consistent with the requirements in the Ventura County MS4 (Monitoring Program No. CI 7388). This information will allow the Permittee and the Regional Water Board staff to evaluate the effects of differing storm events in terms of storm water runoff volume and duration and in-stream effects.

F. Non-Stormwater Outfall-Based Screening and Monitoring Program

The non-storm water outfall screening and monitoring program is intended to build off of Permittees prior efforts under Order No. 01-182 to screen all outfalls within their MS4 to identify illicit connections and discharges. Under this Order, the Permittees will use the following step-wise method to assess non-storm water discharges.

- Develop criteria or other means to ensure that all outfalls with significant non-storm water discharges are identified and assessed during the term of this Order.
- For outfalls determined to have significant non-storm water flow, determine whether flows are the result of illicit connections/illicit discharges (IC/IDs), authorized or conditionally exempt non-storm water flows, or from unknown sources.
- Refer information related to identified IC/IDs to the IC/ID Elimination Program (Part VI.D.10 of this Order) for appropriate action.
- Based on existing screening or monitoring data or other institutional knowledge, assess the impact of non-storm water discharges (other than identified IC/IDs) on the receiving water.
- Prioritize monitoring of outfalls considering the potential threat to the receiving water and applicable TMDL compliance schedules.
- Conduct monitoring or assess existing monitoring data to determine the impact of non-storm water discharges on the receiving water.
- Conduct monitoring or other investigations to identify the source of pollutants in non-storm water discharges.
- Use results of the screening process to evaluate the conditionally exempt non-storm water discharges identified in Part III.A.2 and III.A.3 in this Order and take appropriate actions pursuant to Part III.A.4.d of this Order for those discharges that

have been found to be a source of pollutants. Any future reclassification shall occur per the conditions in Parts III.A.2 or III.A.6 of this Order.

The screening and monitoring program is intended to maximize the use of Permittee resources by integrating the screening and monitoring process into existing or planned IMP/CIMP efforts. It is also intended to rely on the illicit discharge source investigation and elimination requirements in Part VI.D.10 of this Order and the MS4 Mapping requirements in Part VII.A of the MRP.

The screening and source identification component of the program is used to identify the source(s) and point(s) of origin of the non-storm water discharge. The Permittee is required to develop a source identification schedule based on the prioritized list of outfalls exhibiting significant non-storm water discharges. The schedule shall ensure that source investigations are to be conducted for no less than 25% of the outfalls in the inventory within three years of the effective date of this Order and 100% of the outfalls within 5 years of the effective date of this Order. This will ensure that all outfalls with significant non-storm water discharges will be assessed within the term of this Order.

Additional requirements have been included to require the Permittee to develop a map and database of all outfalls with known non-storm water discharges. The database and map are to be updated throughout the term of this Order. If the source of the non-storm water discharge is determined to be an NPDES permitted discharge, a discharge subject to a Record of Decision approved by USEPA pursuant to section 121 of CERCLA, a conditionally exempt essential non-storm water discharge, or entirely comprised of natural flows as defined at Part III.A.d of this Order, the Permittee need only document the source and report to the Regional Water Board within 30 days of determination and in the next annual report. Likewise, if the discharge is determined to originate in an upstream jurisdiction, the Permittee is to provide notice and all characterization data to the upstream jurisdiction within 30 days of determination.

However, if the source is either unknown or a conditionally exempt non-essential non-storm water discharge, each Permittee shall conduct monitoring required in Part IX.F of the MRP. Special provisions are also provided if the discharge is found to result from multiple sources.

The parameters to be monitored include flow rate, pollutants assigned a WQBEL or receiving water limitation to implement TMDL provisions for the respective receiving water, as identified in Attachments L - R of this Order, non-storm water action levels as identified in Attachment G of this Order, and CWA Section 303(d) listed pollutants for the respective receiving water. Aquatic Toxicity required only when receiving water monitoring indicates aquatic toxicity and the TIE conducted in the receiving water is inconclusive.

In an effort to provide flexibility and allow the Permittee to prioritize its monitoring efforts, the outfall based monitoring can be integrated within an IMP/CIMP. For outfalls subject to a dry weather TMDL, monitoring frequency is established per the approved TMDL Monitoring Program.

Unless specified in an approved IMP/CIMP, outfalls not subject to dry weather TMDLs must be monitored at least four times during the first year of monitoring. The four times per year monitoring is reflective of the potential for high variability in the quality and volume of non-storm water discharges and duration as opposed to storm water discharges.

Collected monitoring data is to be compared against applicable receiving water limitations, water quality based effluent limitations, non-storm water action levels, or exhibited Aquatic Toxicity as defined in the Parts XII.F and G of the MRP and all exceedances are to be reported in the Integrated Monitoring Compliance Report required in Part XIX.A.5 of the MRP.

After the first year, monitoring for specific pollutants may be reduced to once per year, if the values reported in the first year do not exceed applicable non-storm water WQBELs, non-storm water action levels, or a water quality standard applicable to the receiving water.

After one year of monitoring, the Permittee may submit a written request to the Executive Officer of the Regional Water Board requesting to eliminate monitoring for specific pollutants based on an analysis demonstrating that there is no reasonable potential for the pollutant to exist in the discharge at a concentration exceeding applicable water quality standards.

1. Dry Weather Screening Monitoring

a. Background

Clean Water Act section 402(p) regulates discharges from municipal separate storm sewer systems (MS4s). Clean Water Act section 402(p)(3)(B)(ii) requires the Permittees to effectively prohibit non-storm water from entering the MS4.

Non-exempted, non-storm water discharges are to be effectively prohibited from entering the MS4 or become subject to another NPDES permit (55 Fed.Reg. 47990, 47995 (Nov.16, 1990)). Conveyances which continue to accept non-exempt, non-storm water discharges do not meet the definition of MS4 and are not subject to Clean Water Act section 402(p)(3)(B) unless the discharges are issued separate NPDES permits. Instead, conveyances that continue to accept non-exempt, non-storm water discharges that do not have a separate NPDES permit are subject to sections 301 and 402 of the CWA (55 Fed.Reg. 47990, 48037 (Nov. 16, 1990)).

In part, to implement these statutory provisions, Order No. 01-182 included non-storm water discharge prohibitions. Several categories of non-storm water discharges are specifically identified as authorized or conditionally exempt non-storm water discharges, including:

i. Discharges covered under an NPDES permit

ii. Discharges authorized by USEPA under CERCLA

iii. Discharges resulting from natural flows

iv. Discharges from emergency fire fighting activity

v. Some Categories of Discharges incidental to urban activities

Further, as another mechanism to effectively prohibit non-storm water discharges into the MS4, Order No. 01-182 also requires the Los Angeles County MS4 Co-Permittees to implement an illicit connections and illicit discharges elimination program as part of their storm water management program pursuant to 40 CFR section 122.26(d)(2)(iv)(B).

Finally, Monitoring and Reporting Program CI 6948, a part of Order No. 01-182, required dry weather monitoring at the Mass Emissions Stations (MES) to estimate pollutant contributions and determine if the MS4 is contributing to exceedances of applicable water quality standards during dry weather.

b. Evaluation of Dry Weather Data

40 CFR section 122.44(d)(1)(i) mandates that permits include effluent limitations for all pollutants that are or may be discharged at levels that have the reasonable potential to cause or contribute to an exceedance of a water quality standard. The process for determining reasonable potential and calculating WQBELs when necessary is intended to protect the designated uses of the receiving water as specified in the Basin Plan, and achieve applicable water quality objectives and criteria that are contained in the Basin Plan and other state plans and policies, or any applicable water quality criteria contained in the California Toxics Rule (CTR) and National Toxics Rule (NTR).

In an effort to evaluate the Discharger's program to effectively prohibit non-storm water discharges into the MS4, as well as to determine whether MS4 discharges are potentially contributing to exceedances of water quality standards, the Reasonable Potential Analysis (RPA) process was used as a screening tool. In doing so, dry weather monitoring data submitted by the Discharger was evaluated to identify where non-storm water discharges may impact beneficial uses and where additional monitoring and/or investigations of non-storm water discharges should be focused.

Order No. 01-182 and Monitoring and Reporting Program No. 6948 required the Discharger to implement core monitoring at seven mass emission stations:

- Ballona Creek
- Malibu Creek
- Los Angeles River
- San Gabriel River (representing the upper portion of the San Gabriel River Watershed Management Area)

- Coyote Creek (representing the lower portion of the San Gabriel River Watershed Management Area)
- Dominguez Channel
- Santa Clara River

In addition to wet weather monitoring requirements at each of the mass emission stations, a minimum of two dry weather samples were required each year. Monitoring was required for conventional pollutants (BOD, TSS, pH, fecal coliform, oil and grease), priority pollutants, and a variety of other nonconventional pollutants (e.g., nutrients, dissolved oxygen, salinity/conductivity).

Dry weather monitoring data were compiled from Annual Stormwater Monitoring Reports submitted by the Los Angeles County Department of Public Works for the period from 2005 to 2011 to reflect the most recent data. The Annual Stormwater Monitoring Reports include the results for dry weather samples that were collected from 2005 to 2011 on 15 different dates.

For each monitored parameter, the most stringent applicable water quality objective/criterion was identified from the Basin Plan and the CTR at 40 CFR section 131.38. The following assumptions were made when conducting the analysis:

- The mass emissions stations represented only freshwater segments. Accordingly, CTR criteria for the protection of freshwater aquatic life were selected for comparison to monitoring results.
- For hardness-dependent metals, criteria were derived by using the lowest reported dry-weather hardness value for each mass emission station for the period of 2005 to 2011.
- For screening purposes the criteria associated with the most protective beneficial use for any segment within the watershed was selected for comparison to monitoring results.
- Basin Plan surface water quality objectives for minerals (i.e., total dissolved solids, sulfate, and chloride) apply to specific stream reaches within each watershed and are provided in Chapter 3 of the Basin Plan. Where no specific objectives are identified, footnote f to Table 3-8 provides guidelines for protection of various beneficial uses. When guidelines were presented as a range, the most protective (low end of range) value was selected and applied according to beneficial uses in the watershed.
- With the exception of bacteria, the water quality objectives used for the analysis are the most current in effect. Since adoption of Order No. 01-182 in 2001, some Basin Plan objectives and CTR criteria have been amended. As a result, the pollutants monitored under the MRP for Order No. 01-182 may not necessarily reflect current objectives.
- *E coli* bacteria was not required as part of the MRP to Order No. 01-182, thus screening for bacteria was based solely on fecal coliform. Monitoring results for fecal coliform were compared to the Basin Plan fecal coliform objective in

effect during the monitoring period. The Basin Plan objective for bacteria was amended in December 2011 to omit fecal coliform as a fresh water objective. The existing numeric bacteria objective for freshwater is limited to *E. coli*. The Basin Plan bacteria objectives are expressed as a single sample maximum and a geometric mean. In this screening, limited data precluded calculation of geometric means, therefore, the geometric mean objective was treated as a "not-to-exceed" criterion for screening purposes. The geometric mean objective for fecal coliform is 200/100 ml (the Basin Plan objective to protect primary contact recreation beneficial use (REC-1) uses in freshwaters).

- Within a given watershed, where the Basin Plan designates a "Potential" beneficial use of MUN, drinking water maximum contaminant levels (MCLs) were not applied as the most stringent objectives. Within a given watershed, where the Basin Plan designates "Potential" or "Intermittent" for beneficial uses other than MUN, the appropriate protective objectives were used for screening. This is consistent with Basin Plan requirements and existing permitting procedures.

The maximum reported pollutant concentration was compared to the most stringent applicable water quality objective to determine if there was potential for receiving water concentrations to exceed water quality objectives.

Table F-10 summarizes the results of the RPA analysis based on evaluation of the 15 sets of data for the period of 2005 to 2011 for each of the mass emission stations. Generally, all priority pollutant organic parameters were reported as below detection levels at practical quantitation levels (PQLs) consistent with the minimum levels (MLs) listed in the SIP. The most prevalent pollutants of concern among the mass emission stations include fecal coliform bacteria, cyanide, mercury, chloride, sulfate, total dissolved solids, copper, and selenium. Reported fecal coliform bacteria, cyanide, copper, and selenium concentrations appear to consistently exceed objectives/criteria in all watersheds at relatively high levels. For watersheds where objectives apply for sulfate and total dissolved solids, the receiving water concentrations consistently exceeded the objectives. The incidences where exceedances are indicated for mercury are largely due to analytical detection levels that were higher than the applicable criterion.

Table F-10. Summary of LA County Watersheds and Frequency of Receiving Water Exceeding Criteria - 2005 to 2011- Dry Season Data Analysis[1]

Parameter	Santa Clara River	Los Angeles River	Dominguez Channel	Ballona Creek	Malibu Creek	San Gabriel River	
						Upper Portion	Lower Portion
pH	0/15	7/15	5/15	3/15	0/15	1/14	2/15
Total Coliform	No FW Objective	No FW Objective)	No FW Objective	No FW Objective	No FW Objective	No FW Objective	No FW Objective
Fecal Coliform	4/15	4/15	10/15	13/15	6/15	11/14	13/15
Enterococcus	No FW Objective	No FW Objective	No FW Objective	No FW Objective	No FW Objective	No FW Objective	No FW Objective
Chloride	15/15	15/15	No Objective	0/15	0/15	14/14	15/15
Dissolved Oxygen	1/15	0/15	0/15	0/15	0/15	√1/14	0/15
Nitrate-N	0/15	0/15	No Objective	No Objective	0/15	7/14	No Objective
Nitrite-N	0/15	3/15	No Objective	No Objective	0/15	0/15	No Objective

Parameter	Santa Clara River	Los Angeles River	Dominguez Channel	Ballona Creek	Malibu Creek	San Gabriel River	
						Upper Portion	Lower Portion
Methylene Blue Active Substances	4/15	0/15	No Objective	No Objective	0/15	0/14	No Objective
Sulfate	15/15	15/15	No Objective	No Objective	15/15	14/14	15/15
Total Dissolved Solids	15/15	15/15	No Objective	No Objective	13/15	14/14	15/15
Turbidity[2]	0/15	2/15	No Objective	No Objective	0/15	0/15	0/15
Cyanide	11/15	14/15	4/15	15/15	3/15	14/14	15/15
Total Aluminum	1/15	2/15	No Objective	No Objective	0/15	1/14	No Objective
Dissolved Copper	0/15	0/15	5/15	0/15	0/15	13/14	0/15
Total Copper	1/15	6/15	11/15	3/15	0/15	13/14	2/15
Dissolved Lead	0/15	0/15	0/15	0/15	0/15	1/14	0/15
Total Lead	0/15	0/15	1/15	1/15	0/15	13/14	0/15
Total Mercury	1515	14/15	14/15	15/15	15/15	14/14	15/15
Dissolved Mercury	15/15	15/15	15/15	15/15	15/15	14/14	14/14
Total Nickel	0/15	0/15	0/15	0/15	0/15	1/14	0/15
Dissolved Selenium	2/15	2/15	1/15	2/15	6/15	1/15	10/11
Total Selenium	2/15	2/15	1/15	2/15	6/15	1/15	10/11
Dissolved Zinc	0/15	0/15	0/15	0/15	0/15	7/10	0/15
Total Zinc	0/15	0/15	0/1)	0/15	0/15	10/10	0/15

1. Frequency of exceedance is denoted as number of exceedances/number of dry weather samples evaluated. For example, "2/15" indicates 2 of the 15 samples had analytical results that exceeded the water quality objective for a given parameter.

2. The Basin Plan objective for turbidity for the protection of MUN is the secondary MCL of 5 NTU. The Basin Plan contains additional turbidity objectives expressed as incremental changes over natural conditions. Since inadequate data were available to assess criteria expressed as incremental changes, only the MCL was considered in the analysis.

c. Requirements for Controlling Non-Storm Water Discharges

The USEPA's approach for non-storm water discharges from MS4s is to regulate these discharges under the existing CWA section 402 NPDES framework for discharges to surface waters. The NPDES program (40 CFR section 122.44(d)) utilizes discharge prohibitions and effluent limitations as regulatory mechanisms to regulate non-storm water discharges, including the use of technology- and water quality-based effluent limitations. Non-numerical controls, such as BMPs for non-storm water discharges may only be authorized where numerical effluent limitations are infeasible.

As described in Table F-10 above, there were a number of pollutants for which it was determined that receiving water concentrations at the mass emission stations indicate possible exceedances of water quality standards within the watershed. However, for waterbody-pollutant combinations not subject to a TMDL, there is uncertainty regarding whether exceedances occurred within specific segments where standards apply; the extent to which non-storm water discharges from the MS4 have caused or contributed to any exceedances; and whether the exceedances are attributable to any one or more specific MS4 outfalls within the watershed management area.

Given the need for additional data on non-stormwater discharges from the MS4 where a TMDL has not been developed, USEPA and the State have used action

levels as a means to gauge potential impact to water quality and to identify the potential need for additional controls for non-stormwater discharges in the future. If these action levels are exceeded, then additional requirements (e.g., numeric effluent limitations, increased monitoring, special studies, additional BMPs) are typically used to address the potential impacts. In this case, non-storm water action levels are applicable to non-storm water discharges from that MS4 outfall. Non-storm water discharges from the MS4 are those which occur during dry weather conditions. These action levels are not applied to storm water discharges, as defined within this Order. Storm water discharges regulated by this Order are required to meet the MEP standard and other provisions determined necessary by the State to control pollutants and have separate requirements under this Order.

The use of action levels in this Order does not restrict the Regional Water Boards ability to modify this Order in accordance with 40 CFR section 122.62 to include numeric effluent limitations should monitoring data indicate that controls beyond action levels are necessary to ensure that non-storm water discharges do not cause or contribute to exceedances of water quality standards.

i. Approach for Deriving Action Levels

Where exceedances are indicated in Table F-10 and where a TMDL has not been developed, action levels are applied as a screening tool to indicate where non-storm water discharges, including exempted flows and illicit connections may be causing or contributing to exceedances of water quality objectives. Action levels in this Order are based upon numeric or narrative water quality objectives and criteria as defined in the Basin Plan, the Water Quality Control Plan for Ocean Waters of California (Ocean Plan), and the CTR.

(1) Discharges to Inland Surface Waters, Enclosed Bays, and Estuaries

Priority Pollutants Subject to the CTR

Priority pollutant water quality criteria in the CTR are applicable to all inland surface waters, enclosed bays, and estuaries. The CTR contains both saltwater and freshwater criteria. Because a distinct separation generally does not exist between freshwater and saltwater aquatic communities, the following apply, in accordance with Section 131.38(c)(3):

- For waters in which the salinity is equal to or less than 1 part per thousand (ppt), the freshwater criteria apply.
- For waters in which the salinity is greater than 10 ppt 95 percent or more of the time, the saltwater criteria apply.
- For waters in which the salinity is between 1 ppt and 10 ppt, the more stringent of the freshwater or saltwater criteria apply.

For continuous discharges, 40 CFR section 122.45(d)(1) specifies daily maximum and average monthly effluent limitations. Because of the uncertainty regarding the frequency of occurrence and duration of non-storm water discharges through the MS4, average monthly action levels (AMALs) and maximum daily action levels (MDALs) were calculated following the procedure based on the steady-state model, available in Section 1.4 of the SIP. The SIP procedures were used to calculate action levels for CTR priority pollutants and other constituents for which the Basin Plan contains numeric objectives.

Since many of the streams in the Region have minimal upstream flows, mixing zones and dilution credits are usually not appropriate. Therefore, in this Order, no dilution credit is being allowed.

40 CFR section 122.45(c) requires that effluent limitations for metals be expressed as total recoverable concentration; therefore it is appropriate to include action levels also as a total recoverable concentration. The SIP requires that if it is necessary to express a dissolved metal value as a total recoverable and a site-specific translator has not yet been developed, the Regional Water Board shall use the applicable conversion factor contained in the 40 CFR section 131.38.

Using nickel as an example, and assuming application of saltwater criteria (e.g., a situation where an MS4 outfall discharges to an estuary), the following demonstrates how action levels were established for this Order. The tables in Attachment H provide the action levels for each watershed management area addressed by this Order using the process described below.

The process for developing these limits is in accordance with Section 1.4 of the SIP. Two sets of AMAL and MDAL values are calculated separately, one set for the protection of aquatic life and the other for the protection of human health (consumption of organisms only). The AMALs and MDALs for aquatic life and human health are compared, and the most restrictive AMAL and the most restrictive MDAL are selected as the action level.

Step 1: For each constituent requiring an action level, identify the applicable water quality criteria or objective. For each criterion, determine the effluent concentration allowance (ECA) using the following steady state mass balance equation:

$ECA = C + D(C-B)$ when $C > B$, and
$ECA = C$ when $C \leq B$,

Where:

C = The priority pollutant criterion/objective, adjusted if

necessary for hardness, pH and translators (criteria for saltwater are independent of hardness and pH).

D = The dilution credit, and

B = The ambient background concentration

As discussed above, for this Order, dilution was not allowed; therefore:

$ECA = C$

For nickel the applicable ECAs are:

ECA_{acute} = 75 µg/L

$ECA_{chronic}$ = 8.3 µg/L

Step 2: For each ECA based on aquatic life criterion/objective, determine the long-term average discharge condition (LTA) by multiplying the ECA by a factor (multiplier). The multiplier is a statistically based factor that adjusts the ECA to account for effluent variability. The value of the multiplier varies depending on the coefficient of variation (CV) of the data set and whether it is an acute or chronic criterion/objective. Table 1 of the SIP provides pre-calculated values for the multipliers based on the value of the CV. Equations to develop the multipliers in place of using values in the tables are provided in Section 1.4, Step 3 of the SIP and will not be repeated here.

$LTA_{acute} = ECA_{acute} \times Multiplier_{acute\ 99}$

$LTA_{chronic} = ECA_{chronic} \times Multiplier_{chronic\ 99}$

The CV for the data set must be determined before the multipliers can be selected and will vary depending on the number of samples and the standard deviation of a data set. If the data set is less than 10 samples, or at least 80% of the samples in the data set are reported as non-detect, the CV shall be set equal to 0.6. For nickel, a CV of 0.6 was assumed.

For nickel, the following data were used to develop the acute and chronic LTA using equations provided in Section 1.4, Step 3 of the SIP (Table 1 of the SIP also provides this data up to three decimals):

CV	ECA Multiplier$_{acute}$	ECA Multiplier$_{chronic}$
0.6	0.32	0.53

LTA_{acute} = 75 µg/L x 0.32 = 24 µg/L

$LTA_{chronic}$ = 8.3 µg/L x 0.53 = 4.4 µg/L

Step 3: Select the most limiting (lowest) of the LTA.

LTA = most limiting of LTA_{acute} or $LTA_{chronic}$

For nickel, the most limiting LTA was the $LTA_{chronic}$

LTA_{nickel}= $LTA_{chronic}$ = 4.4 µg/L

Step 4: Calculate the action levels by multiplying the LTA by a factor (multiplier). Action levels are expressed as AMAL and MDAL. The multiplier is a statistically based factor that adjusts the LTA for the averaging periods and exceedance frequencies of the criteria/objectives and the action levels. The value of the multiplier varies depending on the probability basis, the CV of the data set, the number of samples (for AMAL) and whether it is a monthly or daily limit. Table 2 of the SIP provides pre-calculated values for the multipliers based on the value of the CV and the number of samples. Equations to develop the multipliers in place of using values in the tables are provided in Section 1.4, Step 5 of the SIP and will not be repeated here.

$AMAL_{aquatic\ life}$ = LTA x $AMAL_{multiplier\ 95}$

$MDAL_{aquatic\ life}$ = LTA x $MDAL_{multiplier\ 99}$

AMAL multipliers are based on a 95th percentile occurrence probability, and the MDAL multipliers are based on the 99th percentile occurrence probability. If the number of samples is less than four (4), the default number of samples to be used is four (4).

For nickel, the following data were used to develop the AMAL and MDAL for action levels using equations provided in Section 1.4, Step 5 of the SIP (Table 2 of the SIP also provides this data up to two decimals):

No. of Samples Per Month	CV	$Multiplier_{MDAL\ 99}$	$Multiplier_{AMAL\ 95}$
4	0.6	3.11	1.55

Therefore:

AMAL = 4.4 µg/L x 1.55 = 6.8 µg/L

MDAL= 4.4 µg/L x 3.11 = 14 µg/L

Step 5: For the ECA based on human health, set the AMAL equal to the $ECA_{human\ health}$

$AMAL_{human\ health} = ECA_{human\ health}$

For nickel:

$AMAL_{human\ health}$ = 4,600 µg/L

Step 6: Calculate the MDAL for human health by multiplying the AMAL by the ratio of the $Multiplier_{MDAL}$ to the $Multiplier_{AMAL}$. Table 2 of the SIP provides pre-calculated ratios to be used in this calculation based on the CV and the number of samples.

$MDAL_{human\ health} = AMAL_{human\ health}$ x ($Multiplier_{MDAL}$ / $Multiplier_{AMAL}$)

For nickel, the following data were used to develop the $MDAL_{human\ health}$:

No. of Samples Per Month	CV	$Multiplier_{MDAL\ 99}$	$Multiplier_{AMAL\ 95}$	Ratio
4	0.6	3.11	1.55	2.0

For nickel:

$MDAL_{human\ health}$= 4,600 µg/L x 2 = 9,200 µg/L

Step 7: Select the lower of the AMAL and MDAL based on aquatic life and human health as the non-storm water action level for this Order.

$AMAL_{aquatic\ life}$	$MDAL_{aquatic\ life}$	$AMAL_{human\ health}$	$MDAL_{human\ health}$
6.8	14	4,600	9,200

For nickel, the lowest (most restrictive) levels are based on aquatic toxicity and serve as the basis for non-storm water action levels included in this Order.

Table F-11: Calculations of Freshwater Action Levels[1]

Parameter	Units	CV	Aquatic Life Criteria[2]		Human Health Criteria	HH Calculations			Aquatic Life Calculations									Final Action Levels	
			C acute = CMC tot	C chronic = CCC tot	HH-Organisms only	ECA_{HH} = $AMAL_{HH}$	AMAL/MDAL $Multiplier_{HH}$	$MDAL_{HH}$	ECA $Multiplier_{acute}$	LTA_{acute}	ECA $Multiplier_{chronic}$	$LTA_{chronic}$	Lowest LTA	AMAL $Multiplier_{95}$	$AMAL_{AL}$	MDAL $Multiplier_{99}$	$MDAL_{AL}$	Lowest AMAL	Lowest MDAL
Cadmium	µg/L	0.6	4.52	2.46	N		2.01		0.321	1.45	0.527	1.30	1.30	1.55	2.02	3.11	4.0	2.0	4.0
Copper	µg/L	0.6	14.00	9.33			2.01		0.321	4.49	0.527	4.92	4.49	1.55	6.98	3.11	14	7.0	14
Lead	µg/L	0.6	81.65	3.18	N		2.01		0.321	26.21	0.527	1.68	1.68	1.55	2.61	3.11	5.2	2.6	5.2
Mercury	µg/L	0.6	R	R	0.051	0.051	2.01	0.1023										0.051	0.10
Nickel	µg/L	0.6	469.17	52.16	4600	4600	2.01	9228	0.321	150.6	0.527	27.51	27.51	1.55	42.71	3.11	86	43	86
Selenium	µg/L	0.6	20.00	5.00	N		2.01		0.321	6.42	0.527	2.64	2.64	1.55	4.09	3.11	8.2	4.1	8.2
Silver	µg/L	0.6	4.06				2.01		0.321	1.30	0.527		1.30	1.55	2.02	3.11	4.1	2.0	4.1
Zinc	µg/L	0.6	119.82	119.82			2.01		0.321	38.47	0.527	63.20	38.47	1.55	59.72	3.11	120	60	120
Cyanide	µg/L	0.6	22.00	5.20	22,0000	22,0000	2.01	44,1362	0.321	7.06	0.527	2.74	2.74	1.55	4.26	3.11	8.5	4.3	8.5

R = Reserved
N = Narrative
[1] Calculations include rounded results. Final AMALs/MDALs are rounded to 2 significant digits.
[2] Where criteria are based on hardness, a value of 100 mg/L CaCO3 was used for these sample calculations.

Table F-12: Calculations of Saltwater Action Levels

Parameter	Units	CV	Aquatic Life Criteria		Human Health Criteria	HH Calculations			Aquatic Life Calculations									Final Action Levels	
			C acute = CMC tot	C chronic = CCC tot	HH-Organisms only	ECA_{HH} = $AMAL_{HH}$	AMAL/MDAL Multiplier$_{HH}$	$MDAL_{HH}$	ECA Multiplier$_{acute}$	LTA_{acute}	ECA Multiplier$_{chronic}$	$LTA_{chronic}$	Lowest LTA	AMAL Multiplier$_{95}$	$AMAL_{AL}$	MDAL Multiplier$_{99}$	$MDAL_{AL}$	Lowest AMAL	Lowest MDAL
Cadmium	µg/L	0.6	42.25	9.36	N		2.01		0.321	13.57	0.527	4.93	4.93	1.55	7.66	3.11	15.4	7.7	15
Copper	µg/L	0.6	5.78	3.73			2.01		0.321	1.86	0.527	1.97	1.86	1.55	2.88	3.11	5.8	2.9	5.8
Lead	µg/L	0.6	220.82	8.52	N		2.01		0.321	70.90	0.527	4.49	4.49	1.55	6.97	3.11	14	7.0	14
Mercury	µg/L	0.6	R	R	0.051	0.051	2.01	0.1023										0.051	0.10
Nickel	µg/L	0.6	74.75	8.28	4600	4600	2.01	9228	0.321	24.00	0.527	4.37	4.37	1.55	6.78	3.11	14	6.8	14
Selenium	µg/L	0.6	290.58	71.14	N		2.01		0.321	93.30	0.527	37.52	37.52	1.55	58.25	3.11	117	58	117
Silver	µg/L	0.6	2.24				2.01		0.321	0.72	0.527		0.72	1.55	1.11	3.11	2.2	1.1	2.2
Zinc	µg/L	0.6	95.14	85.62			2.01		0.321	30.55	0.527	45.16	30.55	1.55	47.42	3.11	95	47	95
Cyanide	µg/L	0.6	1.00	1.00	22,0000	22,0000	2.01	44,1362	0.321	0.32	0.527	0.53	0.32	1.55	0.50	3.11	1.0	0.50	1.0

R = Reserved
N = Narrative
[1] Calculations include rounded results. Final AMALs/MDALs are rounded to 2 significant digits.

Basin Plan Requirements for Other Pollutants

A number of pollutants were identified that exceed applicable Basin Plan objectives. These objectives however, are not amenable to the SIP process for developing action levels.

Resolution No. 01-018, Amendment to the Water Quality Control Plan for the Los Angeles Region to Update the Bacteria Objectives for Water Bodies Designated for Water Contact Recreation, adopted by the Regional Water Board on October 25, 2001, served as the basis for the action levels for bacteria. Subsequently, the Basin Plan was amended through Order No. R10-005 (effective on December 5, 2011) to remove the freshwater fecal coliform numeric objective while retaining the freshwater objective for *E. coli*. The dry-weather evaluation conducted for fecal coliform indicates of a need for a bacteria action level. Since the Basin Plan no longer contains freshwater objectives for fecal coliform, action levels have been developed for *E. coli* in freshwater. The current bacteria objectives (saltwater and freshwater) are applied directly to the MS4 outfalls discharging to freshwaters to serve as action levels.

The Basin Plan, in Tables 3-5 through 3-7, include chemical constituents objectives based on the incorporation of Title 22, Drinking Water Standards, by reference, to protect the surface water MUN beneficial use. The Basin Plan in Tables 3-8 and 3-10 also includes mineral quality objectives that apply to specific watersheds and stream reaches and where indicated by the beneficial use of ground water recharge (GWR). These objectives contained in the Basin Plan are listed as not-to-exceed values. Consistent with the approach used by the Regional Water Board in other Orders for dry weather discharges, these not-to-exceed values will be applied as AMALs in this Order.

(2) Discharges to the Surf Zone

From the Table B water quality objectives of the Ocean Plan, action levels are calculated according to Equation 1 of the Ocean Plan for all pollutants:

$$Ce = Co + Dm(Co-Cs)$$

Where:

Ce = the Action Level (µg/L)
Co = the water quality objective to be met at the completion of initial dilution (µg/L)
Cs = background seawater concentration (µg/L)
Dm = minimum probable initial dilution expressed as parts seawater per part wastewater

The Dm is based on observed waste flow characteristics, receiving water density structure, and the assumption that no currents of sufficient strength to influence the initial dilution process flow across the discharge structure. Initial dilution is the process that results in the rapid and irreversible turbulent mixing of wastewater with ocean water around the point of discharge. It is conservatively assumed that when non-storm water discharges to the surf zone occur, that conditions are such that no rapid mixing would occur. Therefore, an initial dilution is not allowed and the formula above reduces to:

Ce = Co

The following demonstrates how the action levels for copper are established.

Copper
Ce = 3 µg/L (6-Month Median)
Ce = 12 µg/L (Daily Maximum)
Ce = 30 µg/L (Instantaneous Maximum)

ii. Applicability of Action Levels

The action levels included in this Order apply to pollutants in non-storm water discharges from the MS4 to receiving waters that are not already subject to WQBELs to implement TMDL wasteload allocations applicable during dry weather.

This Order requires outfall-based monitoring throughout each Watershed Management Area, including monitoring during dry weather. The dry weather monitoring data will be evaluated by the Permittee(s) in comparison to all applicable action levels.

iii. Requirements When Action Levels are Exceeded

When monitoring data indicates an action level is exceeded for one or more pollutants, then the Permittee will be required to implement actions to identify the source of the non-storm water discharge, and depending on the identified source, implement an appropriate response. With respect to action levels, the Permittee will have identified appropriate procedures within the Watershed Management Program (Part VI.C) and the Illicit Connection and Illicit Discharge Elimination Program (Part VI.D.9).

G. New Development/Re-Development Tracking

This Order requires the use of Low Impact Development (LID) designs to reduce storm water runoff (and pollutant discharges) from new development or re-development projects. In areas that drain to water bodies that have been armored or are not natural drainages, the goal of this requirement is to protect water quality by retaining on-site the

storm water runoff from the 85th percentile storm event. This is the design storm used throughout most of California for water quality protection. If it is not technically feasible due to site constraints (e.g., close proximity to a drinking water supply, slope instability) or if instead the project proponent is proposing to supplement a groundwater replenishment project, the project proponent may provide treatment BMPs to reduce pollutant loading in storm water runoff from the project site. Flow through treatment BMPs are less effective in reducing pollutant loadings than on-site retention for the design storm. Therefore the project proponent must mitigate the impacts further by providing for LID designs at retrofit projects or other off-site locations within the same subwatershed. The effectiveness monitoring is designed to assess and track whether post construction operation of the LID designs are effective in retaining the design storm runoff volume.

For projects located in natural drainages, the goal of the LID design is to retain the pre-development hydrology, unless a water body is not susceptible to hydromodification effects (e.g., estuaries or the ocean). Smaller projects that will disturb less than 50 acres of land are presumed to meet the criteria if the project retains the storm water runoff from the 95th percentile storm. The effectiveness monitoring in this situation should be design to confirm that storm water runoff is not occurring for any storm at or less than the 95th percentile storm. Projects may also demonstrate compliance by showing that the erosion potential will be approximately 1 as described in Attachment J of this Order. For larger projects, the project proponent may be required to conduct modeling to demonstrate compliance by comparing the hydrographs of a two-year storm for the pre-development and post-development conditions, or by comparing the flow duration curves for a reference watershed and the post project condition. Flow monitoring will be required to substantiate the simulated hydrographs or flow duration curves.

Monitoring studies conducted by the California Department of Public Health (CDPH) have documented that mosquitoes opportunistically breed in structural storm water Best Management Practices (BMPs), particularly those that hold standing water for over 96 hours. Certain Low Impact Development (LID) site design measures that hold standing water such as rainwater capture systems may similarly produce mosquitoes. BMPs and LID design features should incorporate design, construction, and maintenance principles to promote drainage within 96 hours to minimize standing water available to mosquitoes. This Order requires regulated MS4 Permittees to coordinate with other agencies necessary to successfully implement the provisions of this Order. These agencies may include CDPH and local mosquito and vector control agencies on vector-related issues surrounding implementation of post-construction BMPs.

This Order is not intended to prohibit the inspection for or abatement of vectors by the State Department of Public Health or local vector agencies in accordance with CA Health and Safety Code, § 116110 et seq. and Water Quality Order No. 2012-0003-DWQ.

H. Regional Studies

1. Southern California Stormwater Monitoring Coalition Watershed Monitoring Program

As a condition to this Order, Permittees must participate in the bioassessment studies conducted under the Southern California Stormwater Monitoring Coalition Watershed Monitoring Program. Bioassessment provides a direct measure of whether aquatic life beneficial uses are fully supported and integrates the effects of multiple factors including pollutant discharges, changes in hydrology, geomorphology, and riparian buffers.

I. Aquatic Toxicity Monitoring Methods

Based on the stated goals of the CWA, the USEPA and individual states implement three approaches to monitoring water quality. These approaches include chemical-specific monitoring, toxicity testing, and bioassessments (USEPA 1991a). Each of the three approaches has distinct advantages and all three work together to ensure that the physical, chemical and biological integrity of our waters are protected. Water quality objectives have been developed for only a limited universe of chemicals. For mixtures of chemicals with unknown interactions or for chemicals having no chemical-specific objectives, the sole use of chemical-specific objectives to safeguard aquatic resources would not ensure adequate protection. Aquatic life in southern California coastal watersheds are often exposed to nearly 100% effluent from wastewater treatment plants, urban runoff, or storm water; therefore, toxicity testing and bioassessments are also critical components for monitoring programs as they offer a more direct and thorough confirmation of biological impacts. The primary advantage of using the toxicity testing approach is that this tool can be used to assess toxic effects (acute and chronic) of all the chemicals in aqueous samples of effluent, receiving water, or storm water. This allows the cumulative effect of the aqueous mixture to be evaluated, rather than the toxic responses to individual chemicals (USEPA, EPA Regions 8, 9, and 10 Toxicity Training Tool, January 2010).

Based on available data from the LA County MS4 Permit Annual Monitoring Reports, samples collected at mass emissions stations during both wet weather and dry weather have been found to be toxic in the San Gabriel River, Coyote Creek, the Los Angeles River, Dominguez Channel, Ballona Creek, Malibu Creek, and the Santa Clara River, demonstrating the need for this toxicity monitoring requirement (see Table below).

Summary of Toxicity by Watershed							
Source and Season	San Gabriel River	Coyote Creek	Los Angeles River	Dominguez Channel	Ballona Creek	Malibu Creek	Santa Clara River
Integrated Receiving Water Impacts Report (1994-2005)							
Wet Weather	-	CDS, CDR, SUF	CDS, SUF	CDS, CDR, SUF	CDR, SUF	CDR	CDS
Dry Weather	-	SUF	SUF	SUF	SUF	-	-

Annual Monitoring Reports (2005-2010)							
Wet Weather							
2005-06	-	-	SUF	CDS, CDR, SUF	SUF	-	-
2006-07	SUF	SUF	SUF	SUF	SUF	SUF	SUF
2007-08	SUF	-	-	SUF	-	CDS,CDR,SUF	SUF
2008-09	-	SUF	SUF	-	SUF	CDS,CDR,SUF	-
2009-10	-	-	-	-	-	-	-
Dry Weather							
2005-06	-	-	-	-	-	CDS,CDR	-
2006-07	-	-	-	-	SUF	-	-
2007-08	-	-	CDS,CDR	-	SUF	-	-
2008-09	-	-	SUF	-	-	-	-
2009-10	-	-	-	-	-	-	-

Notes:
CDS= Ceriodaphnia survival toxicity
SUF= Sea Urchin fertilization toxicity
CDR= Ceriodaphnia reproduction toxicity

This Order requires Permittee(s) to conduct chronic toxicity tests on water samples, by methods specified in *Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms* (EPA/821/R-02/013, 2002; Table IA, 40 CFR Part 136) or a more recent edition.

To determine the most sensitive test species, the Permittee(s) shall conduct two wet weather and two dry weather toxicity tests with a vertebrate, an invertebrate, and a plant. After this screening period, subsequent monitoring shall be conducted using the most sensitive test species. Alternatively, if a sensitive test species has already been determined, or if there is prior knowledge of potential toxicant(s) and a test species is sensitive to such toxicant(s), then monitoring shall be conducted using only that test species. Sensitive test species determinations shall also consider the most sensitive test species used for proximal receiving water monitoring. After the screening period, subsequent monitoring shall be conducted using the most sensitive test species. Rescreening shall occur in the fourth year of the permit term.

For brackish water, this Order requires the Permittee(s) to conduct the chronic toxicity test in accordance with USEPA's Short-Term Methods for Estimating the Chronic Toxicity of Effluent and Receiving Waters to West Coast Marine and Estuarine Organisms, First Edition, August 1995, (EPA/600/R-95/136), or Short Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Marine and Estuarine Organisms, Third Edition, October 2002, (EPA/821-R-02-014), or a more recent edition.

Furthermore, the toxicity component of the Monitoring Program includes toxicity identification procedures so that pollutants that are causing or contributing to acute or

chronic effects in aquatic life exposed to these waters can be identified and others can be discounted. TIEs are needed to identify the culprit constituents to be used to prioritize management actions. Where toxicants are identified in a MS4 discharge, the Order requires a Toxicity Reduction Plan (TRE).

-

TRE development and implementation is directly tied to the integrated monitoring programs and watershed management program, to ensure that management actions and follow-up monitoring are implemented when problems are identified. Permittees are encouraged to coordinate TREs with concurrent TMDLs where overlap exists. If a TMDL is being developed or implemented for an identified toxic pollutant, much of the work necessary to meet the objectives of a TRE may already be underway, and information and implementation measures should be shared.

Overall, the toxicity monitoring program will assess the impact of storm water and non-storm water discharges on the overall quality of aquatic fauna and flora and implement measures to ensure that those impacts are eliminated or reduced. As stated previously, chemical monitoring does not necessarily reveal the totality of impacts of storm water on aquatic life and habitat-related beneficial uses of water bodies. Therefore, toxicity requirements are a necessary component of the MS4 monitoring program.

J. Special Studies

Requirements to conduct special studies as described in TMDL Implementation Plans that were approved by the Executive Officer of the Regional Water Board prior to the effective date of this Order are incorporated into this Order by reference.

K. Annual Reporting

The Annual Reporting requirement was also required in Order No. 01-182 and provides summary information to the Regional Water Board on each Permittee's participation in one or more Watershed Management Programs; the impact of each Permittee(s) storm water and non-storm water discharges on the receiving water; each Permittee's compliance with receiving water limitations, numeric water quality based effluent limitations, and non-storm water action levels; and the effectiveness of each Permittee(s) control measures in reducing discharges of pollutants from the MS4 to receiving waters. In addition the Annual Report allows the Regional Water Board to assess whether the quality of MS4 discharges and the health of receiving waters is improving, staying the same, or declining as a result watershed management program efforts, and/or TMDL implementation measures, or other Control Measures and whether changes in water quality can be attributed to pollutant controls imposed on new development, re-development, or retrofit projects. The Annual Report provides the Permittee(s) a forum to discuss the effectiveness of its past and ongoing control measure efforts and to convey its plans for future control measures as well as a way to present data and conclusions in a transparent manner so as to allow review and understanding by the general public. Overall the Annual Report allows Permittee's to focus reporting efforts on watershed condition, water quality assessment, and an evaluation of the effectiveness of control measures.

L. Watershed Summary Information, Organization and Content

As a means to establish a baseline and then identify changes or trends, for each watershed, each Permittee shall provide the information on its watershed management area, subwatershed area, and drainage areas within the subwatershed area in its odd year Annual Report (e.g., Year 1, 3, 5). The requested information should be provided for each watershed within the Permittee's jurisdiction. Alternatively, permittees participating in a Watershed Management Program may provide the requested information through the development and submission of a Watershed Management Program report or within a TMDL Implementation Plan Annual Report. However, in either case, the Permittee shall bear responsibility for the completeness and accuracy of the referenced information. This reporting requirement helps to ensure that both the Permittee and the Regional Water Board have up to date information on the status of each of their watersheds and subwatersheds.

M. Jurisdictional Assessment and Reporting

The requested information shall be provided for each watershed within the Permittee's jurisdiction. Annual Reports submitted on behalf of a group of Watershed Permittees shall clearly identify all data collected and strategies, control measures, and assessments implemented by each Permittee within its jurisdiction as well as those implemented by multiple Permittees on a watershed scale. Permittees must provide information on storm water control measures, an effectiveness assessment of storm water control measures, information on non-storm water control measures, an effectiveness assessment of non-storm water control measures, an integrated monitoring compliance report, information on adaptive management strategies, and supporting data and information. The addition of this reporting requirement serves as a mechanism to evaluate and ensure the protection of receiving water quality on a watershed scale. If Permittees do not elect to develop a Watershed Management Program, all required information shall be provided by the Permittee for its jurisdiction.

N. TMDL Reporting

Reporting requirements included in this Order and Attachment E (MRP) were established during the TMDL development process for each individual TMDL. These reporting requirements have incorporated into this Order to implement TMDL requirements.

VIII. CALIFORNIA WATER CODE SECTION 13241

California Water Code section 13241 requires the Regional Water Board to consider certain factors, including economic considerations, in the adoption of water quality objectives. California Water Code section 13263 requires the Board to take into consideration the provisions of section 13241 in adopting waste discharge requirements. In *City of Burbank v. State Water Resources Control Board* (2005) 35 Cal.4th 613, the California Supreme Court considered whether regional water boards must comply with section 13241 when issuing waste discharge requirements under section 13263(a) by taking into account the costs a permittee will incur in complying with the permit requirements. The Court concluded that whether it is necessary to consider such cost information "depends on whether those

restrictions meet or exceed the requirements of the federal Clean Water Act." (*Id.* at p. 627.) The Court ruled that regional water boards may not consider the factors in section 13241, including economics, to justify imposing pollutant restriction that are less stringent than the applicable federal law requires. (*Id.* at pp. 618, 626-627 ["[Water Code s]ection 13377 specifies that [] discharge permits issued by California's regional boards must meet the federal standards set by federal law. In effect, section 13377 forbids a regional board's consideration of any economic hardship on the part of the permit holder if doing so would result in the dilution of the requirements set by Congress in the Clean Water Act…Because section 13263 cannot authorize what federal law forbids, it cannot authorize a regional board, when issuing a [] discharge permit, to use compliance costs to justify pollutant restrictions that do not comply with federal clean water standards"].) However, when the pollutant restrictions in an NPDES permit are more stringent than federal law requires, California Water Code section 13263 requires that the Water Boards consider the factors described in section 13241 as they apply to those specific restrictions.

The Regional Water Board finds that the requirements in this Order are not more stringent than the minimum federal requirements. Among other requirements, federal law requires MS4 permits to include requirements to effectively prohibit non-storm water discharges into the storm sewers, in addition to requiring controls to reduce the discharge of pollutants in storm water to the maximum extent practicable and other provisions that the agency determines are necessary for the control of pollutants in MS4 discharges. The requirements in this Order may be more specific or detailed than those enumerated in federal regulations under 40 CFR § 122.26 or in USEPA guidance. However, the requirements have been designed to be consistent with and within the federal statutory mandates described in Clean Water Act section 402(p)(3)(B)(ii) and (iii) and the related federal regulations and guidance. Consistent with federal law, all of the conditions in this Order could have been included in a permit adopted by USEPA in the absence of the in lieu authority of California to issue NPDES permits. Moreover, the inclusion of numeric WQBELs in this Order does not cause the permit to be more stringent than current federal law. Federal law authorizes both narrative and numeric effluent limitations to meet state water quality standards. The inclusion of WQBELs as discharge specifications in an NPDES permit in order to achieve compliance with water quality standards is not a more stringent requirement than the inclusion of BMP based permit limitations to achieve water quality standards. (State Water Board Order No. WQ 2006-0012 (*Boeing*).) Therefore, consideration of the factors set forth in section 13241 is not required for permit requirements that implement the effective prohibition on the discharge of non-storm water discharges into the MS4, or for controls to reduce the discharge of pollutants in storm water to the maximum extent practicable, or other provisions that the Regional Water Board has determined appropriate to control such pollutants, as those requirements are mandated by federal law..

Notwithstanding the above, the Regional Water Board has considered the factors set forth in California Water Code section 13241 in issuing this Order. That analysis is provided below. The Regional Water Board has also considered all of the evidence that has been presented to the Board regarding the section 13241 factors in adopting this Order. The Regional Water Board finds that the requirements in this Order are reasonably necessary to protect beneficial uses identified in the Basin Plan, and the economic information related to costs of compliance and other section 13241 factors are not sufficient to justify failing to protect those beneficial uses. Where appropriate, the Regional Water Board has provided

Permittees with additional time to implement control measures to achieve final WQBELs and/or water quality standards.

A. *Past, present and probable future beneficial uses of water.*

Chapter 2 of the Basin Plan identifies designated beneficial uses for water bodies in the Los Angeles Region, which are the receiving waters for MS4 discharges. Beneficial uses are also identified in the findings of this Order and further discussed relative to TMDLs in section VI.D of this Fact Sheet.

B. *Environmental characteristics of the hydrographic unit under consideration, including the quality of water available thereto.*

Environmental characteristics of each of the Watershed Management Areas covered by this Order, including the quality of water, are discussed in the Region's Watershed Management Initiative Chapter as well as available in State of the Watershed reports and the State's CWA Section 303(d) List of impaired waters.

- Santa Clara River Watershed Management Area
  www.waterboards.ca.gov/losangeles/water_issues/programs/regional_program/wmi/santa_clara_river_watershed/santa_clara_river_watershed.doc
- Santa Monica Bay Watershed Management Area
  www.waterboards.ca.gov/losangeles/water_issues/programs/regional_program/wmi/santa_monica_bayWMA/santa_monica_bayWMA.doc
- Dominguez Channel Watershed Management Area
  www.waterboards.ca.gov/losangeles/water_issues/programs/regional_program/wmi/dominguez_channelWMA/dominguez_channelWMA.doc
- Los Angeles River Watershed Management Area
  www.waterboards.ca.gov/losangeles/water_issues/programs/regional_program/wmi/los_angeles_river_watershed/los_angeles_river_watershed.doc
- San Gabriel River Watershed Management Area
  www.waterboards.ca.gov/losangeles/water_issues/programs/regional_program/wmi/san_gabriel_river_watershed/san_gabriel_river_watershed.doc
- Los Cerritos Channel and Alamitos Bay Watershed Management Area
  www.waterboards.ca.gov/losangeles/water_issues/programs/regional_program/wmi/los_cerritos_channelWMA/los_cerritos_channelWMA.doc
- Middle Santa Ana River Watershed Management Area
  http://www.waterboards.ca.gov/santaana/water_issues/programs/wmi/index.shtml
  http://www.sawpa.org/watershedinfo.html

The quality of water in receiving waters for MS4 discharges has been routinely monitored by Permittees through the Monitoring and Reporting Program under Order No. 01-182. Below are summaries of water quality exceedances reported for the 2010-2011 reporting year.

Summary of Constituents that Did Not Meet Water Quality Objectives at Mass Emission Stations during 2010-2011 for One or More Events

Mass Emission/Watershed	Wet	Dry
Ballona Creek (S01)[1]	Fecal coliforms[2] pH[3] Dissolved zinc	pH[3]
Malibu Creek (S02)	Fecal coliforms Cyanide pH[3] Sulfate	Fecal coliforms Sulfate
Los Angeles River (S10)[1]	Fecal coliforms[2] pH[3] Dissolved zinc Cyanide	Fecal coliforms pH[3]
Coyote Creek (S13)	Fecal coliforms[2] pH[3] Dissolved zinc	Fecal coliforms
San Gabriel River (S14)	Fecal coliforms[2] pH[3]	
Dominguez Channel (S28)[1]	Fecal coliforms[2] Dissolved copper Dissolved zinc	Fecal coliforms pH[3]
Santa Clara River (S29)	Fecal coliforms pH[3] Dissolved zinc	

[1] More urbanized watersheds.
[2] Subject to the fecal coliform water quality objective high-flow suspension (LARWQCB, 2003).
[3] pH was evaluated outside of holding time.

The following table summarizes the results of an analysis based on evaluation of the 15 sets of dry weather data for the period of 2005 to 2011 for each of the mass emission stations. The most prevalent pollutants of concern among the mass emission stations include fecal coliform bacteria, cyanide, mercury, chloride, sulfate, total dissolved solids, copper, and selenium. Reported results for fecal coliform bacteria, cyanide, copper, and

selenium concentrations consistently exceeded water quality objectives in all watersheds. For watersheds where objectives apply for sulfate and total dissolved solids, the receiving water concentrations consistently exceeded the objectives. The incidences where exceedances are indicated for mercury are largely due to analytical detection levels that were higher than the applicable objective.

Summary of LA County Watersheds and Frequency of Receiving Water Exceeding Water Quality Objectives (2005 to 2011 - Dry Season Data Analysis)[1]

Parameter	Santa Clara River	Los Angeles River	Dominguez Channel	Ballona Creek	Malibu Creek	San Gabriel River	
						Upper Portion	Lower Portion
pH	0/15	7/15	5/15	3/15	0/15	1/14	2/15
Total Coliform	No FW[3] Objective	No FW[3] Objective	No FW[3] Objective	No FW[3] Objective	No FW[3] Objective	No FW[3] Objective	No FW[3] Objective
Fecal Coliform	4/15	4/15	10/15	13/15	6/15	11/14	13/15
Enterococcus	No FW[3] Objective	No FW[3] Objective	No FW[3] Objective	No FW[3] Objective	No FW[3] Objective	No FW[3] Objective	No FW[3] Objective
Chloride	15/15	15/15	No Objective	0/15	0/15	14/14	15/15
Dissolved Oxygen	1/15	0/15	0/15	0/15	0/15	1/14	0/15
Nitrate-N	0/15	0/15	No Objective	No Objective	0/15	7/14	No Objective
Nitrite-N	0/15	3/15	No Objective	No Objective	0/15	0/15	No Objective
Methylene Blue Active Substances	4/15	0/15	No Objective	No Objective	0/15	0/14	No Objective
Sulfate	15/15	15/15	No Objective	No Objective	15/15	14/14	15/15
Total Dissolved Solids	15/15	15/15	No Objective	No Objective	13/15	14/14	15/15
Turbidity[2]	0/15	2/15	No Objective	No Objective	0/15	0/15	0/15
Cyanide	11/15	14/15	4/15	15/15	3/15	14/14	15/15
Total Aluminum	1/15	2/15	No Objective	No Objective	0/15	1/14	No Objective
Dissolved Copper	0/15	0/15	5/15	0/15	0/15	13/14	0/15
Total Copper	1/15	6/15	11/15	3/15	0/15	13/14	2/15
Dissolved Lead	0/15	0/15	0/15	0/15	0/15	1/14	0/15
Total Lead	0/15	0/15	1/15	1/15	0/15	13/14	0/15
Total Mercury	1515	14/15	14/15	15/15	15/15	14/14	15/15
Dissolved Mercury	15/15	15/15	15/15	15/15	15/15	14/14	14/14
Total Nickel	0/15	0/15	0/15	0/15	0/15	1/14	0/15
Dissolved Selenium	2/15	2/15	1/15	2/15	6/15	1/15	10/11
Total Selenium	2/15	2/15	1/15	2/15	6/15	1/15	10/11
Dissolved Zinc	0/15	0/15	0/15	0/15	0/15	7/10	0/15
Total Zinc	0/15	0/15	0/1)	0/15	0/15	10/10	0/15

[1] Frequency of exceedance is denoted as number of exceedances/number of dry weather samples evaluated. For example, “2/15” indicates 2 of the 15 samples had analytical results that exceeded the water quality objective for a given parameter.

[2] The Basin Plan water quality objective for turbidity for the protection of MUN is the secondary MCL of 5 NTU. The Basin Plan contains additional turbidity objectives expressed as incremental changes over natural conditions. Since inadequate data were available to assess criteria expressed as incremental changes, only the MCL was considered in the analysis.

[3] FW means freshwater

C. *Water quality conditions that could reasonably be achieved through the coordinated control of all factors which affect water quality in the area.*

Since 2001, municipalities both locally and nationally have gained considerable experience in the management of municipal storm water and non-storm water discharges. The technical capacity to monitor storm water and its impacts on water quality has also increased. In many areas, monitoring of the impacts of storm water on water quality has become more sophisticated and widespread. Better information on the effectiveness of storm water controls to reduce pollutant loadings and address water quality impairments is now available. The International Stormwater BMP Database (http://www.bmpdatabase.org/) provides extensive information of the performance capabilities of storm water controls. Additionally, the County of Los Angeles conducted a BMP effectiveness study as a requirement of Order No. 01-182.[50]

Generally, improvements in the quality of receiving waters impacted by MS4 discharges can be achieved by reducing the volume of storm water or non-storm water discharged through the MS4 to receiving waters; reducing pollutant loads to storm water and non-storm water through source control/pollution prevention, including operational source control such as street sweeping, public education, and product or materials elimination or substitution; and removing pollutants that have been loaded into storm water or non-storm water before they enter receiving waters, through treatment or diversion to a sanitary sewer. The following factors are generally accepted to affect pollutant concentrations in MS4 discharges[51]:

- Land use
- Climatic conditions
- Season (i.e. for southern California, dry season and winter wet season)
- Percentage imperviousness (in particular, “effective impervious area” or “EIA”)
- Rainfall amount and intensity (including seasonal “first-flush” effects)
- Runoff amount
- Watershed size
- Motor vehicle operation
- Aerial deposition

In their 2010-2011 Annual Report, Permittees identified the following storm water and non-storm water pollutant control measures as particularly effective:

- Street sweeping;
- Catch basin cleaning;
- Catch basin inserts
- Trash bins;
- End-of-pipe controls such as low-flow diversions;
- Infiltration controls;
- Erosion controls; and

[50] County of Los Angeles Department of Public Works. “Los Angeles County BMP Effectiveness Study,” August 2005.
[51] Maestre, Alexander and Robert Pitt. “Identification of Significant Factors Affecting Stormwater Quality Using the NSQD” (draft monograph, 2005).

- Public education and outreach, including multi-lingual strategies.

Permittees summarized the most-used BMPs and most popular BMPs (according to the number of Permittees using a particular BMP) in their 2010-2011 Annual Report. An itemization of all BMPs installed and maintained during the 2010-11 reporting period is provided in Appendices B and C of the Permittees' Annual Report.

Most installed BMPs County-wide During 2010-11

BMP Type	Total Number Installed
Catch Basin Connector Pipe Full Capture (CPS)	6377
Fossil Filter Catch Basin Insert	5968
Automatic Retractable Catch Basin Trash Screen (ARS)	3870
Clean Screen Catch Basin Insert	3767
Extra Trash Can	3681
Covered Trash Bin	3119
Signage and Stenciling	1884
Drain Pac Catch Basin Insert	1625
CulTec Infiltration Systems	1296
Infiltration Trenches	963
Infiltration Pit	958
Abtech Ultra Urban Catch Basin Insert	748
CDS Gross Pollutant Separator	438
United Storm Water Catch Basin Scree Inserts	403
Restaurants Vent Traps	258
Stormceptor Gross Pollutant Separators	211

Most Used Proprietary and Non-Proprietary BMPs During 2010-11

Types of Nonproprietary BMPs Used By Most Permittees		**Types Proprietary BMPs Used By Most Permittees**	
BMP Type	**No. of Cities**	**BMP Type**	**No. of Cities**
Infiltration Trenches	40	Fossil Filter Catch Basin Inserts	46
Covered Trash Bins	32	CDS Gross Pollutant Separator	36
Extra Trash Cans	31	Drain Pac Catch Basin Insert	21
Enhanced Street Sweeping	26	Clean Screen Catch Basin Insert	21

Dog Parks	23	Stormceptor Gross Pollutant Separator	19

Some of the many advances in how to effectively control storm water and pollutants in storm water have occurred locally within the Los Angeles Region and include the development of cost effective trash full capture devices, storm water diversion, treatment and beneficial use facilities such as SMURRF and storm water capture, storage, and reuse facilities such as Sun Valley, low impact development/site design practices, and innovative/opportunistic culvert inlet multi-media filters. There are many other case studies of municipalities that have implemented innovative and effective storm water management measures (e.g., Portland, OR).

This Order is designed to reduce pollutant loading to waterbodies within Los Angeles County from discharges to and from the Los Angeles County MS4 through the implementation of multi-faceted storm water management programs at the municipal and watershed levels. Overall improvements in MS4 discharge quality are expected to occur over time with ongoing implementation of the Los Angeles County MS4 Permit. However, currently little information on the quality of storm water in the region and the water quality that can be achieved with the coordinated control of all MS4 discharges through full implementation of all storm water management measures by individual municipalities and collectively by all Permittees within a watershed is available. This Order, however, is designed to effectively focus and broaden monitoring requirements with the addition of outfall monitoring and monitoring associated with the 33 TMDLs being incorporated, so pollutant loading from the MS4 can be better quantified and improvements in water quality resulting from implementation of storm water management measures can be tracked.

D. *Economic considerations.*

The Regional Water Board recognizes that Permittees will incur costs in implementing this Order above and beyond the costs from the Permittees' prior permit. Such costs will be incurred in complying with the post-construction, hydromodification, Low Impact Development, TMDL, and monitoring and reporting requirements of this Order. The Regional Water Board also recognizes that, due to California's current economic condition, many Permittees currently have limited staff and resources to implement actions to address its MS4 discharges. Based on the economic considerations below, the Board has provided permittees a significant amount of flexibility to choose how to implement the permit. This Order allows Permittees the flexibility to address critical water quality priorities, namely discharges to waters subject to TMDLs, but aims to do so in a focused and cost-effective manner while maintaining the level of water quality protection mandated by the Clean Water Act and other applicable requirements. For example, the inclusion of a watershed management program option allows Permittees to submit a plan, either individually or in collaboration with other Permittees, for Regional Water Board Executive Officer approval that would allow for actions to be prioritized based on specific watershed needs. The Order also allows Permittees to customize monitoring requirements, which they may do individually, or in collaboration with other Permittees. In the end, it is up to the permittees to determine the effective BMPs and measures needed to comply with this Order. Permittees

can choose to implement the least expensive measures that are effective in meeting the requirements of this Order. This Order also does not require permittees to fully implement all requirements within a single permit term. Where appropriate, the Board has provided permittees with additional time outside of the permit term to implement control measures to achieve final WQBELs and/or water quality standards. Lastly, this Order includes several reopener provisions whereby the Board can modify this Order based on new information gleaned during the term of this Order.

Before discussing the economics associated with regulating MS4 discharges, it should be noted that there are instances outside of this Order where the Board previously considered economics. First, when the Board adopted the water quality objectives that serve as the basis for several requirements in this Order, it took economic considerations into account. (See *In re Los Angeles County Municipal Storm Water Permit Litigation* (Sup. Ct. Los Angeles County, March 24, 2005, Case No. BS 080548), Statement of Decision from Phase II Trial on Petitions for Writ of Mandate, p. 21.) Second, the cost of complying with TMDL wasteload allocations has been previously considered during the adoption of each TMDL. The costs of complying with the water quality based effluent limitations and receiving water limitations derived from the 33 TMDLs, which are incorporated into this Order, are not additive. For example, the costs estimated for compliance with a TMDL for one pollutant in a watershed, such as metals, can be applied to the costs to achieve compliance with a TMDL for another pollutant in the same watershed, such as pesticides, because the same implementation strategies can be used for both pollutants. Several MS4 permittees have recognized this opportunity in the multi-pollutant TMDL implementation plans they have submitted (e.g. Ballona Creek Metals/Bacteria TMDLs and Machado Lake Pesticides/Nutrients TMDLs). In other words, the estimated cost of complying with the Ballona Creek Metals TMDL can apply to metals, pesticides, PCBs, and bacteria. The costs for complying with trash TMDLs are based on different implementation strategies (e.g., full capture devices), but those strategies are effective at removing metals and toxic pollutants as well. Thus, the costs estimated for each TMDL should not be added to determine the cost of compliance with all TMDLs. The staff reports for the various TMDLs include this disclaimer, and also discuss the cost efficiencies that can be achieved by treating multiple pollutants. Further, the Board's considerations of economics in developing each TMDL have often resulted in lengthy implementation schedules to achieve water quality standards. Where appropriate, these implementation schedules have been used to justify compliance schedules in this Order.

Economic Considerations of Regulating MS4 Discharges

It is very difficult to determine the true cost of implementing storm water and urban runoff management programs because of highly variable factors and unknown level of implementation among different municipalities and inconsistencies in reporting by Permittees. In addition, it is difficult to isolate program costs attributable to permit compliance. Reported costs of compliance for the same program element can vary widely from Permittee to Permittee, often by a very wide margin that is not easily explained. Despite these problems, efforts have been made to identify storm water and urban runoff

management program costs, which can be helpful in understanding the costs of program implementation.

Economic considerations of implementing this Order were examined by primarily utilizing the data that are self-reported by the Permittees in their annual reports and a State Water Board funded study, which examined the costs of municipal MS4 programs statewide.[52] The economic impact to public agencies was tabulated based on the reported costs of implementing the six minimum control measures (Public Information and Participation, Industrial/Commercial Facilities Control, Development Planning, Development Construction, Public Agency Activities, and Illicit Connections and Illicit Discharges Elimination) required by 40 CFR section 122.26(d)(2)(iv) as well as costs associated with program management, monitoring programs, and a category described as other. As noted above, Permittees report wide variability in the cost of compliance, which is not easily explained. Based on reported values, the average annual cost to the Permittees in 2010-11 was $4,090,876 with a median cost of $687,633.

It is important to note that reported program costs are not all solely attributable to compliance with requirements of the LA County MS4 Permit. Many program components, and their associated costs, existed before the first LA County MS4 Permit was issued in 1990. For example, storm drain maintenance, street sweeping and trash/litter collection costs are not solely or even principally attributable to MS4 permit compliance, since these practices have long been implemented by municipalities. Therefore, the true program cost related to complying with MS4 permit requirements is some fraction of the total reported costs. For example, after adjusting the total reported costs by subtracting out the costs for street sweeping and trash collection, the average annual cost to the Permittees was $2,397,315 with a median cost of $290,000.

These results are consistent with the State Water Board funded study ("State Water Board Study") that surveyed the costs to develop, implement, maintain and monitor municipal separate storm sewer system management and control programs in 2004.[53] The objectives of the study were to: 1) document stormwater program costs and 2) assess alternative approaches to MS4 quality control. The six cities selected for the study were judged by State Water Board staff as having good MS4 management programs, adequate accounting systems, and represented a variety of geographic locations, hydrologic areas, populations and incomes. The cities selected were Corona, Encinitas, Fremont, Fresno-Clovis Metropolitan Area, Sacramento and Santa Clarita. The results found that the annual total cost per household ranged from $18 to $46. The average cost was found to be $35 and the median, $36. The true mean, which is derived by dividing the total sample costs by the total sample number of households, is $29 in 2002 dollars. This study was further examined and applied to the Ventura County MS4 Permit in "*Economic Considerations of the Proposed (February 25, 2008) State of California Regional Water Quality Control Board Los Angeles Region, Order 08-xxx, NPDES Permit No. CAS004002, Waste Discharge*

[52] Data from NPDES Stormwater Cost Survey, prepared by the Office of Water Programs, California State University, Sacramento (January 2005) and the Los Angeles County Municipal Storm Water Permit (Order No. 01-182), Unified Annual Stormwater Report, 2010 – 2011, http://ladpw.org/wmd/npdesrsa/annualreport/

[53] Currier, Brian K., Joseph M. Jones, Glenn L. Moeller. "NPDES Stormwater Cost Survey, Final Report", Prepared for California State Water Resources Control Board, California State University Sacramento, Office of Water Programs, January, 2005.

Requirements for Stormwater (Wet Weather) and Non-Stormwater (Dry Weather) Discharges from the Municipal Separate Storm Sewer Systems within the Ventura County Watershed Protection District, County of Ventura and the Incorporated Cities Therein," and found that when adjusted for inflation, the total annual cost to the MS4 Permittees ranged from $7.15 to $10.9 million, depending on the averaging method applied.

The State Water Board Study noted inherent limitations in the cost data quality. The most significant data quality limitation cited is that the costs provided by the municipalities were not sufficiently detailed or referenced to provide opportunity for independent review of the accuracy and completeness of the cost data. Similarly, the costs presented in the Los Angeles County Unified Annual Report ("Unified Annual Report") are not presented with supporting data or references so that they can be independently reviewed. Some of the limitations of the reported cost data are illustrated by a comparison of monitoring costs in different sections of the Unified Annual Report. In the monitoring costs section, the total costs for monitoring, including sample collection, analytical results, and sampling station maintenance was $713,409 for 2010-2011. In contrast, the same report showed the monitoring costs of $9,008,460 in the Unified Cost Table. Absent further explanation in the Unified Annual Report, this suggests that the reported costs may not be reliable.

The State Water Board Study also found that certain stormwater implementation costs included activities that provide separate and additional municipal benefits such as street sweeping and storm drain and channel cleaning. The State Water Board Study indicated that the inclusion of these costs as stormwater implementation costs is not uniform across different municipalities. In order to assess the variability of costs reported by different municipalities under the same permit and determine if Los Angeles County MS4 Permittees are reporting costs for activities that provide municipal benefits beyond storm water management and permit compliance, Regional Water Board staff reviewed costs reported by Los Angeles County MS4 Permittees in the Unified Annual Report. The reported storm water costs range from $11.45 to $928.10 per household per year. The average reported cost was $120.04 per household per year and the median cost was $57.31 per household per year. The wide spread of annual costs and the significant difference between the mean and median costs indicate that the LA County MS4 Permittees are not reporting costs in a uniform manner.

Board staff also reviewed available cost data in the Unified Annual Report for Permittees that provided separate costs regarding street sweeping and trash collection. Staff adjusted the total costs so that the costs for these multi-benefit municipal programs were not included in the storm water cost and found that the adjusted storm water costs were greatly reduced by excluding these activities. These adjusted costs ranged from $0.00 per household per year to $903.10 per household per year. The mean adjusted rate is $42.57 per household per year and the median adjusted rate is $17.89 per household per year. Clearly, a significant portion (greater than 50%) of the costs attributed to storm water compliance activities also provide additional municipal benefits. (In the case of the Los Angeles County MS4 Permittees, some municipalities reported costs for trash collection; these costs were not reported by municipalities in the State Water Board Study.)

Finally, Board staff reviewed the cost breakdowns reported in the State Water Board Study and the Unified Annual Report for Los Angeles County MS4 Permittees. The following table summarizes the results:

Cost Category	State Water Board Study	Los Angeles County (2010-2011)
Watershed Management	6%	5%
Construction	11%	1%
Illicit Discharge	4%	2%
Industrial and Commercial	8%	1%
Overall Management	37%	5%
Pollution Prevention	2%	2%
Post Construction	3%	
Public Education	13%	2%
Monitoring	16%	3%
BMP Maintenance	Not Reported	2%
Development	Not Reported	1%
Other	Not reported	76%

The reported costs show differences between the MS4 Permittees surveyed in the State Water Board Study and the Los Angeles County MS4 Permittee costs in the following categories: construction, industrial and commercial activities, public education and monitoring. These categories all show greater proportional statewide cost allocations relative to the cost allocations by the Los Angeles County MS4 Permittees. The Los Angeles County MS4 Permittees report a cost category of BMP maintenance, which is not defined in the State Water Board Study. The management costs in the State Water Board Study were greater than the management costs reported by the Los Angeles County MS4 Permittees, but the Los Angeles County MS4 Permittees also reported a category of "Other" that accounted for a large proportion of costs, which is not defined in the Unified Annual Report.

The State Water Board Study found that cost information is crucial in making management decisions regarding storm water requirements. The report also recommends that annual reports required under MS4 permits throughout the State follow a standard format for cost reporting and that costs for all MS4 program activities (per program area) should be identified as existing, enhanced or new according to the extent that the activity was required under the previous permit, is enhanced by the permit, or is exclusively a result of compliance efforts with new provisions of the MS4 permit.

Further, there is an element of cost consideration inherent in the maximum extent practicable (MEP) standard. While the term "maximum extent practicable" is not specifically defined in the Clean Water Act or its implementing regulations, USEPA, courts, and the State Water Board have addressed what constitutes MEP. MEP is not a one-size fits all approach. Rather, MEP is an evolving, flexible, and advancing concept, which considers practicability. This includes technical and economic practicability. Compliance with the MEP standard involves applying BMPs that are effective in reducing or eliminating the discharge

of pollutants in storm water to receiving waters. BMP development is a dynamic process, and the menu of BMPs may require changes over time as experience is gained and/or the state of the science and art progresses. MEP is the cumulative effect of implementing, evaluating, and making corresponding changes to a variety of technically appropriate and economically practicable BMPs, ensuring that the most appropriate controls are implemented in the most effective manner. The State Water Board has held that "MEP requires permittees to choose effective BMPs, and to reject applicable BMPs only where other effective BMPs will serve the same purpose, the BMPs would not be technically feasible, or the costs would be prohibitive." (State Water Board Order WQ 2000-11.)

In addition to considering the costs of storm water management, it is important to consider the benefits of storm water and urban runoff management programs. A recent study conducted by USC/UCLA assessed the costs and benefits of implementing various approaches for achieving compliance with the MS4 permits in the Los Angeles Region. The study found that non-structural systems would cost $2.8 billion but provide $5.6 billion in benefit. If structural systems were determined to be needed, the study found that total costs would be $5.7 to $7.4 billion, while benefits could reach $18 billion.[54] Costs are anticipated to be borne over many years. As can be seen, the benefits of the programs are expected to considerably exceed their costs. Such findings are corroborated by USEPA, which found that the benefits of implementation of its Phase II storm water rule would also outweigh the costs.[55]

Economic Considerations of Not Regulating MS4 Discharges

Economic discussions of storm water and urban runoff management programs tend to focus on costs incurred by municipalities in developing and implementing the programs. This is appropriate, and these costs are significant and a major issue for the Permittees. However, in adopting Order WQ 2000-11, the State Water Board further found that in considering the cost of compliance, it is also important to consider the costs of impairment; that is, the negative impact of pollution on the economy and the positive impact of improved water quality. For example, economic benefits may result through program implementation, and alternative costs (as well as environmental impacts) may be incurred by not fully implementing the program. So, while it is appropriate and necessary to consider the cost of compliance, it is also important to consider the alternative costs incurred by not fully implementing the programs, as well as the benefits which result from program implementation.

The benefits of implementation of the Los Angeles County MS4 Permit include improvements in water quality, enhancement of beneficial uses, and increased employment, income and satisfaction from environmental amenities. Most of the benefits of this permit can be identified and, in some cases, quantified in monetary terms. Others cannot be expressed in dollar terms and can only be described. For example, household willingness to pay for improvements in fresh water quality for fishing and boating has been estimated by USEPA[56] to be $158-210.62. This estimate can be considered conservative, since it does not include important considerations such as marine waters benefits, wildlife

[54] LARWQCB, 2004. Alternative Approaches to Stormwater Control.
[55] Federal Register / Vol. 64, No. 235 / Wednesday, December 8, 1999 / Rules and Regulations. P. 68791.
[56] Federal Register / Vol. 64, No. 235 / Wednesday, December 8, 1999 / Rules and Regulations. P. 68793.

benefits, or flood control benefits. The California State University, Sacramento study corroborates USEPA's estimates, reporting annual household willingness to pay for statewide clean water to be $180.63.[57] When viewed in comparison to household costs of existing urban runoff management programs, these household willingness to pay estimates exhibit that per household costs incurred by Permittees to implement their urban runoff management programs remain reasonable.

Not regulating discharges from the Los Angeles County MS4 will result in greater pollution of rivers, streams, lakes, reservoirs, bays, harbors, estuaries, groundwater, coastal shorelines and wetlands. Urban runoff in southern California has been found to cause illness in people bathing near storm drains.[58] A study of south Huntington Beach and north Newport Beach found that an illness rate of about 0.8% among bathers at those beaches resulted in about $3 million annually in health-related expenses.[59] In addition, poor beach water quality negatively affects tourism, which in turn reduces revenues to local businesses.

Funding Sources.

Public agencies (both federal and state) recognize the importance of storm water improvement projects and have provided significant sources of funding through grants, bonds, and fee collections to help offset the costs of storm water management in Los Angeles County. The table below summarizes the funds that have been allocated to storm water management in Los Angeles County, to date.

Source of Money	Dollars	% of total costs funded by State (only for those projects which included State funding)
Only State Board-awarded funding (Propositions 12, 13, 40, 50, and 84; and federal money, 319h, 205j, ARRA)	$49,143,132	47%
Only State money from any State agency (propositions only, no federal); includes State Board, DWR, Coastal Conservancy, Fish & Game	$67,461,699	58%
Total costs (approx.) for projects involving State money	$114,703,731	N/A
Prop A	$4,981,772	N/A
Prop O	$508,678,258	N/A
Measure V	$9,107,959	N/A
Total Public Funds (federal,	$645,389,932	N/A (information not

[57] State Water Board, 2005. NPDES Stormwater Cost Survey. P. iv.
[58] Haile, R.W., et al, 1996. An Epidemiological Study of Possible Adverse Health Effects of Swimming in Santa Monica Bay. Santa Monica Bay Restoration Project.
[59] Los Angeles Times, May 2, 2005. Here's What Ocean Germs Cost You: A UC Irvine Study Tallies the Cost of Treatment and Lost Wages for Beachgoers Who Get Sick.

State, local bonds and measures) expended on stormwater control projects		available for projects funded by local bonds and measures)

In addition to current funding options, future funding options continue to be created. Assembly Bill 2554, known as the Los Angeles County Flood Control District's Water Quality Funding Initiative, is currently under consideration by the LACFCD's Board of Supervisors. If the Board of Supervisors approve the fee proposal and no majority protest is received, then it will be submitted for voter approval and could create an estimated annual revenue of $300 million to be utilized for various storm water projects including but not limited to:

- New and Existing Water Quality Projects and Programs
- Maintenance of Existing Facilities
- TMDL and MS4 Permit Implementation

Of the annual revenue, forty percent would be returned to the municipalities to create new local projects and programs and maintenance. Below are the estimated revenues that would be allocated to certain municipalities based on the estimated annual revenue of $300 million.

Municipalities	Estimated Annual Revenue
City of Los Angeles	$37 million
City of Santa Monica	$1 million
El Segundo	$600,000
Manhattan Beach	$300,000
Redondo Beach	$750,000
Unincorporated Areas on Los Angeles County	$15 million

Fifty percent of the annual revenue would be spread across nine watershed authority groups (WAGs) to develop Water Quality Improvement Plans and implement regional projects and programs. Some examples of the possible annual revenues available to the WAGs are provided below:

WAG	Estimated Revenue
Santa Monica Bay	$12 million
Upper Los Angeles River	$36 million
Lower Los Angeles River	$15 million
Upper San Gabriel River	$17 million

The remaining ten percent of the annual revenues would be allocated to the Los Angeles County Flood Control District for administration of the program and other district water quality projects and programs.

E. *Need for developing housing within the region.*

For over 100 years, this region has relied on imported water to meet many of our water resource needs. Imported water makes up approximately 70 to 75% of the Southern California region's water supply, with local groundwater, local surface water, and reclaimed water making up the remaining 25 to 30%.[60] The area encompassed by this Order imports approximately 50% of its water supply. The Los Angeles County MS4 permit helps address the need for housing by controlling pollutants in MS4 discharges, which will improve the quality of water available for recycling and re-use. This in turn may reduce the demand for imported water thereby increasing the region's capacity to support continued housing development.

A reliable water supply for future housing development is required by law, and with less imported water available to guarantee this reliability, an increase in local supply is necessary.

In this Order, the Regional Water Board supports integrated water resources approaches. An integrated water resources approach manages water resources by integrating wastewater, stormwater, recycled water, and potable water planning through the capture and beneficial use of stormwater. An integrated approach can preserve local groundwater resources and reduce imported water needs. Thus, complying with this Order can positively affect the need for developing housing in the region. Furthermore, the low impact development (LID) requirements of this MS4 permit emphasize the necessity to balance growth with the protection of water quality. LID emphasizes cost effective, lot-level strategies that replicate the natural hydrology of the site and reduces the negative impacts of development. By avoiding the installation of more costly conventional storm water management strategies and harnessing runoff at the source, LID practices enhance the environment while providing cost savings to both developers and local governments.

F. *Need to develop and use recycled water.*

Storm water runoff that travels across the urban landscape quickly becomes contaminated with the wastes inherent from urban living. This polluted water is then discharged to the surface waters and eventually the ocean where it wreaks havoc on the natural coastal ecosystem and impacts human health. If the storm water is captured and treated (or captured prior to contamination) a new resource could be added to local water supplies. If this water is more effectively harnessed and recycled, numerous benefits could be achieved. These include:

- Regional reduction on imported water;
- Aid in the restoration of area aquifers;
- Reduction in the need for extensive public works projects; and
- Improvement in the quality of impaired water bodies.

[60] Southern California Association of Governments. The State of the Region 2007 Measuring Regional Progress (Housing, Environment). December 6, 2007. http://www.scag.ca.gov/publications/index.htm.

The exact volume of storm water available for capture is dependent on the intensity and duration of storm events. Looking at land uses across the region and applying land use-specific runoff coefficients, the annual average runoff in the Los Angeles subarea is 450,000 acre-feet/year (with an average annual rainfall of 15.5 inches). The Los Angeles and San Gabriel Rivers Watershed Council estimates that, on average, about 550,000 acre-feet/year of runoff are discharged from Los Angeles area to the ocean.[61]

It is not possible to capture all MS4 discharges; however, a significant portion could be put to beneficial use. Potentially, in Los Angeles, "[i]f we could capture 80% of the rainfall that falls on just a quarter of the urban area-15% of the total watershed-we would be reducing total runoff by approximately 30%. That translates into a diversion of 43 billion gallons of water per year (132,000 acre-feet) or enough to supply 800,000 people for a year."[62] That water capture would render a savings of almost sixty million dollars of imported State Water Project water. Capturing storm water from a larger portion of the watershed could increase the volume of this "new" water even further. Unlike traditional recycled water that requires the installation of dual plumbing and intensive infrastructure, much of the storm water capture could be done with minimal infrastructure retrofits in established communities.

Larger projects (and the corresponding savings) are also possible. The County of Los Angeles recharges storm water already. While the scale of these recharge activities is limited compared to the volume of water potentially available to recharge, the value of the process is significant. For example, in 2000 "County conservation efforts captured 220,000 acre-feet of local storm water runoff that was valued at $80 million dollars."[63]

The unknown effects of infiltrating stormwater to recharge ground water have created some concern that such activities could introduce pollutants to the water supply. However, the U.S. Bureau of Reclamation has found[64]:

"Based on the findings of the WAS research, decentralized stormwater management would provide a local and reliable supply of water that would not negatively impact groundwater quality. A decentralized approach could contribute up to 384,000 acre-feet of additional groundwater recharge annually if the first ¾" of each storm is infiltrated on all parcels, enough to provide water annually to approximately 1.5 million people. The value of this new water supply would be approximately $311 million, using the MWD Tier 2 rate for 2010."

Recent studies in the Los Angeles area have also shown that in the process of infiltration through the soil, many contaminants are removed with no immediate impacts, and no apparent trends to indicate that storm water infiltration will negatively impact groundwater.[65]. In areas with groundwater contamination issues, utilizing recycled storm water to recharge the aquifers may actually aid in the dilution of the buildup of salts. The value of this is hard to quantify but is an additional benefit. The use of recycled water can be accomplished in direct (such as irrigation projects or dual plumbing fixtures) or indirect

[61] http://www.lasgrwc.org/WAS/WASflyer_web.pdf
[62] Los Angeles and San Gabriel River Watershed Council. 1999. *Stormwater: asset not liability*.
[63] Los Angeles County Department of Regional Planning. 2008. 2008 Draft General Plan-Planning Tomorrow's Great Places.
[64] Los Angeles and San Gabriel River Watershed Council. 2010. Water Augmentation Study: Research, Strategy, and Implementation Report.
[65] Los Angeles and San Gabriel River Watershed Council. 2005. Los Angeles Basin Water Augmentation Study Phase II Final Report.

(such as infiltration) ways. Both direct and indirect methods can be completed on a variety of different scales. To maximize the benefits available from using recycled water, the direct and indirect projects will need to be completed on household, neighborhood, watershed and regional scales. Currently there are a limited (but growing) number of projects in the region that can serve as examples of what may be accomplished through the development and implementation of recycled water projects. The Los Angeles County MS4 permit addresses the need for recycled water by controlling pollutants in storm water, which will result in water of improved quality with a greater potential for recycling or beneficial use. State law and policy advocates greatly expanding the use of recycled water to help meet local demand and reduce the volumes of water that are imported from other regions. Increased utilization of recycled water will require looking beyond the traditional reclaimed wastewater and will require utilizing storm water that is wasted by conveyance in the MS4 and dumping into the ocean. Storm water capture and use has not traditionally been included in the discussion of water recycling, but the process meets the definitional constraints and is bound by the same limitations and boundaries.

In addition, there are a number of Total Maximum Daily Loads (TMDLs) developed by the Regional Water Board that incorporate recycled water programs as potential implementation actions to meet TMDL requirements. These potential actions focus on both traditional water recycling and the newer storm water recycling approaches. Such recycled water programs could also reduce reliance on potable water supplies by expanding water recycling and aiding in the reclamation of poor quality, unconfined groundwater supplies. The capture, treatment and use of stormwater could augment these techniques as well. On-site capture of storm water helps prevent the water from being contaminated by urban by-products to begin with and the use of this high quality resource could reduce the unnecessary use of potable water for non-potable needs.

Some great examples of onsite capture are being demonstrated by TreePeople[66] who have demonstration projects ranging from small scale rainwater harvesting at the single family home locations, to large scale watershed projects at Tuxedo Green in Sun Valley where the project redesigned the intersection with a flood control system that conveys most stormwater under, instead of into, the busy intersection. The water is stored in a 45,000-gallon cistern to be used for irrigating the landscaping at the new pocket park, which is planted with native and drought-tolerant species.

Another state of the art project was implemented by the City of Santa Monica called the Santa Monica Urban Runoff Recycling Facility (SMURRF).[67] The project harnesses the urban runoff (primarily during the dry season) and treats it for various pollutants to create a source of high quality water for reuse in landscape irrigation. Because the facility captures the dry weather runoff before it reaches the Santa Monica Bay it decreases a significant amount of pollutants from negatively impacting the Bay and associated beaches. The SMURRF is also open to the public and has several exhibits to raise public awareness of Santa Monica Bay pollution and the role of each individual in the watershed's health.

[66] www.treepeople.org
[67] http://c0133251.cdn.cloudfiles.rackspacecloud.com/Case%20Study%20-%20Santa%20Monica%20Urban%20Runoff%20Recycling%20Facility%20SMURFF.pdf

The County of Los Angeles Department of Public Works, Watershed Management Division has targeted the Sun Valley Watershed "…to solve the local flooding problem while retaining all storm water runoff from the watershed, increasing water conservation, recreational opportunities, wildlife habitat, and reducing stormwater pollution."68 This aggressive plan involves several stakeholders and has implemented a variety of on-site BMPs as well as storm water infiltration retrofits and diversions.

IX. STATE MANDATES

Article XIII B, Section 6(a) of the California Constitution provides that whenever "any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service." The requirements of this Order do not constitute state mandates that are subject to a subvention of funds for several reasons, including, but not limited to, the following.

First, the requirements of this Order do not constitute a new program or a higher level of service as compared to the requirements contained in the previous permit, Order No. 01-182 (as amended). The overarching requirement to impose controls to reduce the pollutants in discharges from MS4s is dictated by the Clean Water Act and is not new to this permit cycle. (33 U.S.C. §1342(p)(3)(B).) The inclusion of new and advanced measures as the MS4 programs evolve and mature over time is anticipated under the Clean Water Act (55 Fed.Reg. 47990, 48052 (Nov. 16, 1990)), and these new and advanced measures do not constitute a new program or higher level of service.

Second, and more broadly, mandates imposed by federal law, rather than by a state agency, are exempt from the requirement that the local agency's expenditures be reimbursed. (Cal. Const., art. XIII B, §9, subd. (b).) This Order implements federally mandated requirements under the Clean Water Act and its requirements are therefore not subject to subvention of funds. This includes federal requirements to effectively prohibit non-storm water discharges, to reduce the discharge of pollutants to the maximum extent practicable, and to include such other provisions as the Administrator or the State determines appropriate for the control of such pollutants. (30 U.S.C. §1342(p)(3)(B).) Federal cases have held these provisions require the development of permits and permit provisions on a case-by-case basis to satisfy federal requirements. (*Natural Resources Defense Council, Inc. v. U.S. E.P.A.* (9th Cir. 1992) 966 F.2d 1292, 1308, fn. 17.) The authority exercised under this Order is not reserved state authority under the Clean Water Act's savings clause (cf. *Burbank v. State Water Resources Control Bd.* (2005) 35 Cal.4th 613, 627-628 [relying on 33 U.S.C. § 1370, which allows a state to develop requirements which are not "less stringent" than federal requirements]), but instead is part of a federal mandate to develop pollutant reduction requirements for municipal separate storm sewer systems. To this extent, it is entirely federal authority that forms the legal basis to establish the permit provisions. (See, *City of Rancho Cucamonga v. Regional Water Quality Control Bd.-Santa Ana Region* (2006) 135 Cal.App.4th 1377, 1389; *Building Industry Ass'n of San Diego County v. State Water Resources Control Bd.* (2004) 124 Cal.App.4th 866, 882-883.)

[68] http://www.sunvalleywatershed.org/watershed_management_plan/wmp-0ES.pdf

The maximum extent practicable standard is a flexible standard that balances a number of considerations, including technical feasibility, cost, public acceptance, regulatory compliance, and effectiveness. (*Building Ind. Asso., supra,* 124 Cal. App.4th at pp. 873, 874, 889.) Such considerations change over time with advances in technology and with experience gained in storm water management. (55 Fed.Reg. 47990, 48052 (Nov. 16, 1990).) Accordingly, a determination of whether the conditions contained in this Order exceed the requirements of federal law cannot be based on a point by point comparison of the permit conditions and the six minimum control measures that are required "at a minimum" to reduce pollutants to the maximum extent practicable and to protect water quality (40 CFR § 122.34). Rather, the appropriate focus is whether the permit conditions, as a whole, exceed the maximum extent practicable standard. In recent months, the County of Los Angeles and County of Sacramento Superior Courts have granted writs setting aside decisions of the Commission on State Mandates that held that certain requirements in Phase I permits constituted unfunded mandates. In both cases, the courts found that the correct analysis in determining whether a MS4 permit constituted a state mandate was to evaluate whether the permit as a whole -- and not a specific permit provision -- exceeds the maximum extent practicable standard. (*State of Cal. v. Comm. on State Mandates* (Super. Ct. Sacramento County, 2012, No. 34-2010-80000604), *State of Cal. v. County of Los Angeles* (Super. Ct. Los Angeles County, 2011, No. BS130730.)

The requirements of the Order, taken as a whole rather than individually, are necessary to reduce the discharge of pollutants to the maximum extent practicable and to protect water quality. The Regional Water Board finds that the requirements of the Order are practicable, do not exceed federal law, and thus do not constitute an unfunded mandate. These findings are the expert conclusions of the principal state agency charged with implementing the NPDES program in California. (Cal. Wat. Code, §§ 13001, 13370.)

It should also be noted that the provisions in this Order to effectively prohibit non-storm water discharges are also mandated by the Clean Water Act. (33 U.S.C. § 1342(p)(3)(B)(ii).) Likewise, the provisions of this Order to implement total maximum daily loads (TMDLs) are federal mandates. The Clean Water Act requires TMDLs to be developed for water bodies that do not meet federal water quality standards. (33 U.S.C. § 1313(d).) Once the USEPA or a state establishes or adopts a TMDL, federal law requires that permits must contain effluent limitations consistent with the assumptions and requirements of any applicable waste load allocation in a TMDL. (40 CFR § 122.44(d)(1)(vii)(B).)

Third, the local agency Permittees' obligations under this Order are similar to, and in many respects less stringent than, the obligations of non-governmental dischargers who are issued NPDES permits for storm water discharges. With a few inapplicable exceptions, the Clean Water Act regulates the discharge of pollutants from point sources (33 U.S.C. § 1342) and the Porter-Cologne Water Quality Control Act (Porter-Cologne Act) regulates the discharge of waste (Cal. Wat. Code, § 13263), both without regard to the source of the pollutant or waste. As a result, the "costs incurred by local agencies" to protect water quality reflect an overarching regulatory scheme that places similar requirements on governmental and non-governmental dischargers. (See *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 57-58 [finding comprehensive workers compensation scheme did not create a cost for local agencies that was subject to state subvention].)

The Clean Water Act and the Porter-Cologne Act largely regulate storm water with an even hand, but to the extent there is any relaxation of this even-handed regulation, it is in favor of the local agencies. Generally, the Clean Water Act requires point source dischargers, including discharges of storm water associated with industrial or construction activity, to comply strictly with water quality standards. (33 U.S.C. § 1311(b)(1)(C), *Defenders of Wildlife v. Browner* (1999) 191 F.3d 1159, 1164-1165 [noting that industrial storm water discharges must strictly comply with water quality standards].) As discussed in prior State Water Resources Control Board decisions, certain provisions of this Order do not require strict compliance with water quality standards. (SWRCB Order No. WQ 2001-15, p. 7.) Those provisions of this Order regulate the discharge of waste in municipal storm water under the Clean Water Act MEP standard, not the BAT/BCT standard that applies to other types of discharges. These provisions, therefore, regulate the discharge of waste in municipal storm water more leniently than the discharge of waste from non-governmental sources.

Fourth, the Permittees have requested permit coverage in lieu of compliance with the complete prohibition against the discharge of pollutants contained in Clean Water Act section 301, subdivision (a) (33 U.S.C. § 1311(a)). To the extent that the local agencies have voluntarily availed themselves of the permit, the program is not a state mandate. (Accord *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 107-108.)

Fifth, the local agencies' responsibility for preventing discharges of waste that can create conditions of pollution or nuisance from conveyances that are within their ownership or control under state law predates the enactment of Article XIIIB, Section (6) of the California Constitution.

Finally, even if any of the permit provisions could be considered unfunded mandates, under Government Code section 17556, subdivision (d), a state mandate is not subject to reimbursement if the local agency has the authority to charge a fee. The local agency Permittees have the authority to levy service charges, fees, or assessments sufficient to pay for compliance with this Order subject to certain voting requirements contained in the California Constitution. (See California Constitution XIII D, section 6, subdivision (c); see also *Howard Jarvis Taxpayers Association v. City of Salinas* (2002) 98 Cal. App. 4th 1351, 1358-1359.). Additional fee authority has recently been established through amendments to the Los Angeles County Flood Control Act (Chapter 755 of the Statutes of 1915, as amended by Assembly Bill 2554 (2010)) to provide funding for municipalities, watershed authority groups, and the LACFCD to initiate, plan, design, construct, implement, operate, maintain, and sustain projects and services to improve surface water quality and reduce storm water and non-storm water pollution in the LACFCD, which may directly support Permittees' implementation of the requirements in this Order. The Fact Sheet demonstrates that numerous activities contribute to the pollutant loading in the municipal separate storm sewer system. Local agencies can levy service charges, fees, or assessments on these activities, independent of real property ownership. (See, e.g., *Apartment Ass'n of Los Angeles County, Inc. v. City of Los Angeles* (2001) 24 Cal.4th 830, 842 [upholding inspection fees associated with renting property].) The authority and ability of a local agency to defray the cost of a program without raising taxes indicates that a program does not entail a cost subject to subvention. (*Clovis Unified School Dist. v. Chiang* (2010) 188

Cal. App.4th 794, 812, quoting *Connell v. Superior Court* (1997) 59 Cal.App.4th 382, 401; *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487-488.)

X. PUBLIC PARTICIPATION

Regional Water Board staff held a kick-off meeting on May 25, 2011 to discuss the preliminary schedule for permit development; identify potential alternative permit structures; and outline some of the major technical and policy aspects of permit development. All LA County MS4 Permittees, as well as other known interested stakeholders, were invited to attend. Ninety-five individuals attended the meeting, representing most of the permittees as well as environmental organizations. After a presentation by Board staff, Permittees and interested persons had an initial opportunity to ask questions of staff, raise concerns, and provide feedback.

At the May 25, 2011 kick-off meeting, Board staff requested input from the attendees on various permit structures. In order to solicit more focused input from permittees on alternative permit structures, and per suggestions at the kick-off meeting, Board staff developed and distributed an on-line survey to permittees using the on-line survey tool, SurveyMonkey®. The survey was distributed to all Los Angeles County MS4 Permittees on June 14, 2011 and responses were requested within two weeks. Fifty-two permittees responded using the on-line survey tool. The on-line survey sought input on several options for permit structure, including an individual permit for each municipality, a single permit for all permittees (i.e., the existing permit structure), and a single or multiple watershed-based permits.

Regional Water Board staff also held three topical workshops on December 15, 2011, January 23, 2012, and March 1, 2012. At the December 2011 workshop, staff discussed and invited feedback on: tentative permit requirements for the “minimum control measures” that comprise Permittees core storm water management program, approaches to addressing non-storm water MS4 discharges, and options for flexibility in permit requirements to address watershed priorities. At the January 2012 workshop, staff discussed and invited feedback on: tentative permit requirements to implement TMDL waste load allocations assigned to MS4 discharges and monitoring and reporting requirements for this Order. At the March 2012 workshop, staff discussed the use of water quality-based effluent limitations in this Order, discussed a revised proposal for monitoring requirements based on comments from the January 2012 workshop, and provided additional detail on proposed minimum control measure requirements.

Three Regional Water Board workshops were held during regularly scheduled Board meetings on November 10, 2011, April 5, 2012, and May 3, 2012. At the November 2011 Board workshop, staff discussed the objectives for the new permit, the status and schedule for permit development, alternatives for permit structure, provisions to implement TMDL WLAs, and provisions for minimum control measures, and identified preliminary considerations related to provisions for non-storm water discharges, receiving water limitations, water quality-based effluent limitations, and requirements for monitoring and reporting.

Prior to the April 5, 2012 Board workshop, staff released complete working proposals of the permit provisions related to two key parts of this Order: the storm water management

program “minimum control measures” and the non-storm water MS4 discharge prohibitions on March 21, 2012 and March 28, 2012, respectively. Staff provided Permittees and interested persons the opportunity to submit written and oral comments over a period of three weeks for early consideration by staff prior to the release of the tentative Order. At the April 2012 Board workshop, staff presented the working proposals and the Board invited public comments. Detailed comments were made on both working proposals, and in particular, comments were made on how to address “essential” non-storm water discharges from drinking water supplier distribution systems and fire fighting activities in this Order.

Prior to the May 3, 2012 Board workshop, staff released complete working proposals of the permit provisions related to three other key parts of this Order: provisions for watershed management programs, TMDL-related requirements, and receiving water limitations language. Staff provided Permittees and interested persons the opportunity to submit written and oral comments over a period of three weeks for early consideration by staff prior to the release of the tentative Order. At the May 2012 Board workshop, staff presented the three working proposals and the Board invited public comments. Staff answered extensive questions from Board members following public comments.

In addition to staff and Board workshops, Regional Water Board staff met regularly with Permittees, including the LA Permit Group (a coalition of 62 of the 86 Permittees covered by this Order), the Los Angeles County Flood Control District and the County of Los Angeles, the City of Los Angeles, and interested environmental organizations including Heal the Bay, Santa Monica Baykeeper, and the Natural Resources Defense Council (NRDC). Staff also met on several occasions with other affected agencies including large public water suppliers (Los Angeles Department of Water and Power and Metropolitan Water District), small community water suppliers, and local fire departments.

Finally, staff hosted several “joint” meetings to bring together key leaders among the Permittees and environmental organizations to discuss significant issues and work towards consensus on these issues where possible. The first two of these were held on May 17, 2012 and May 31, 2012, during which the group discussed permit requirements for USEPA established TMDLs. Staff prepared a working proposal based on the areas of agreement from the May 17th joint meeting, and distributed the proposal for review prior to the second meeting on May 31st. The proposal was discussed and refined at the second meeting. A third meeting was held on June 14, 2012.

Prior to the Board’s consideration of this Order, the Regional Water Board notified the Permittees and all interested agencies and persons of its intent to hold a hearing to issue an NPDES permit for discharges from the Los Angeles County MS4 and provided them with an opportunity to submit written comments over a 45-day period. The procedures followed for submission of written comments are described in the Notice of Hearing and Opportunity to Comment published for this Order. Notification was provided through the Regional Water Board’s website, the Regional Water Board’s e-mail subscription service, and the LA Times. After releasing the tentative permit for public review, the Regional Water Board held a staff level workshop on July 9, 2012 to answer questions regarding the tentative permit. A Board member field tour of portions of the MS4 in the San Gabriel Valley was held on July 31, 2012.

The Regional Water Board held a public hearing on the tentative Order during its regular Board meeting on October 4-5, 2012. The Regional Water Board continued the public hearing at its next regular Board meeting on November 8, 2012. Permittees and interested persons were invited to attend. At the public hearing, the Regional Water Board heard testimony and comments pertinent to the discharge and this Order. The hearing procedures followed by the Regional Water Board are described in the Notice of Hearing and Opportunity to Comment published for this Order.

ATTACHMENT G. NON-STORM WATER ACTION LEVELS AND MUNICIPAL ACTION LEVELS

I. SANTA CLARA RIVER WATERSHED AREA

Table G-1. Action Levels for Discharges to Inland Surface Waters, Enclosed Bays, and Estuaries (with receiving water salinity equal to or less than 1 ppt)

Parameter	Units	Average Monthly	Daily Maximum
E. coli Bacteria	#/100 ml	126[1]	235[2]
Chloride	mg/L	[3]	--
Sulfate	mg/L	[3]	--
Total Dissolved Solids	mg/L	[3]	--
Methylene Blue Active Substances	mg/L	0.5[4]	--
Aluminum, Total Recoverable	mg/L	1.0[4]	--
Cyanide, Total Recoverable	µg/L	4.3	8.5
Copper, Total Recoverable	µg/L	[5]	[5]
Mercury, Total Recoverable	µg/L	0.051	0.1
Selenium, Total Recoverable	µg/L	4.1	8.2

[1] *E. coli* density shall not exceed a geometric mean of 126/100 ml.
[2] *E. coli* density in a single sample shall not exceed 235/100 ml.
[3] In accordance with applicable water quality objectives contained in Chapter 3 of the Basin Plan.
[4] Applicable only to discharges to receiving waters designated for Municipal and Domestic Supply (MUN) use as specified in Tables 2-1 and 2-2 of the Basin Plan.
[5] Action levels are hardness dependent. See Section VII of this Attachment for a listing of the applicable action levels.

Table G-2. Action Levels for Discharges to Inland Surface Waters, Enclosed Bays, and Estuaries (with receiving water salinity between 1 ppt and 10 ppt)

Parameter	Units	Average Monthly	Daily Maximum
E. coli Bacteria	#/100 ml	126[1]	235[2]
Total Coliform Bacteria	#/100 ml	1,000[3]	10,000[4]
Fecal Coliform Bacteria	#/100 ml	200[3]	400[4]
Enterococcus Bacteria	#/100 ml	35[3]	104[4]
Chloride	mg/L	[5]	--
Sulfate	mg/L	[5]	--
Total Dissolved Solids	mg/L	[5]	--
Methylene Blue Active Substances	mg/L	0.5[6]	--
Aluminum, Total Recoverable	mg/L	1.0[6]	--
Cyanide, Total Recoverable	µg/L	0.50	1.0
Copper, Total Recoverable	µg/L	[7]	[7]
Mercury, Total Recoverable	µg/L	0.051	0.1
Selenium, Total Recoverable	µg/L	4.1	8.2

[1] *E. coli* density shall not exceed a geometric mean of 126/100 ml.
[2] *E. coli* density in a single sample shall not exceed 235/100 ml.
[3] Total coliform density shall not exceed a geometric mean of 1,000/100 ml. Fecal coliform density shall not exceed a geometric mean of 200/100 ml. Enterococcus density shall not exceed a geometric mean of 35/100 ml.

[4] Total coliform density in a single sample shall not exceed 10,000/100 ml. Fecal coliform density in a single sample shall not exceed 400/100 ml. Enterococcus density shall not exceed a geometric mean of 104/100 ml.
[5] In accordance with applicable water quality objectives contained in Chapter 3 of the Basin Plan.
[6] Applicable only to discharges to receiving waters designated for Municipal and Domestic Supply (MUN) use as specified in Tables 2-1 and 2-2 of the Basin Plan.
[7] The applicable action level is the most stringent between corresponding Table G-1 and Table G-3 action levels.

Table G-3. Action Levels for Discharges to Inland Surface Waters, Enclosed Bays, and Estuaries (with receiving water salinity equal to or greater than 10 ppt 95% or more of the time)

Parameter	Units	Average Monthly	Daily Maximum
Total Coliform Bacteria	#/100 ml	1,000[1, 2]	10,000[2, 3]
Fecal Coliform Bacteria	#/100 ml	200[1]	400[3]
Enterococcus Bacteria	#/100 ml	35[1]	104[3]
Chloride	mg/L	[4]	--
Sulfate	mg/L	[4]	--
Total Dissolved Solids	mg/L	[4]	--
Methylene Blue Active Substances	mg/L	0.5[5]	--
Aluminum, Total Recoverable	mg/L	1.0[5]	--
Cyanide, Total Recoverable	µg/L	0.50	1.0
Copper, Total Recoverable	µg/L	2.9	5.8
Mercury, Total Recoverable	µg/L	0.051	0.1
Selenium, Total Recoverable	µg/L	58	117

[1] Total coliform density shall not exceed a geometric mean of 1,000/100 ml. Fecal coliform density shall not exceed a geometric mean of 200/100 ml. Enterococcus density shall not exceed a geometric mean of 35/100 ml.
[2] In areas where shellfish may be harvested for human consumption, as determined by the Regional Water Board, the median total coliform density shall not exceed 70/100 ml and not more than 10 percent of the samples shall exceed 230/100 ml.
[3] Total coliform density in a single sample shall not exceed 10,000/100 ml. Fecal coliform density in a single sample shall not exceed 400/100 ml. Enterococcus density shall not exceed a geometric mean of 104/100 ml.
[4] In accordance with applicable water quality objectives contained in Chapter 3 of the Basin Plan.
[5] Applicable only to discharges to receiving waters designated for Municipal and Domestic Supply (MUN) use as specified in Tables 2-1 and 2-2 of the Basin Plan.

Table G-4. Action Levels for Discharges to Ocean Waters (Surf Zone)

Parameter	Units	6-Month Median	Daily Maximum	Instantaneous Maximum
Total Coliform Bacteria	#/100 ml	70[1]	230[1]	--
Fecal Coliform Bacteria	#/100 ml	--	200[2]	400[3]
Enterococcus Bacteria	#/100 ml	--	35[2]	104[3]
Cyanide, Total Recoverable	µg/L	1	4	10
Copper, Total Recoverable	µg/L	3	12	30
Mercury, Total Recoverable	µg/L	0.04	0.16	0.4
Selenium, Total Recoverable	µg/L	15	60	150

[1] In areas where shellfish may be harvested for human consumption, as determined by the Regional Water Board, the median total coliform density shall not exceed 70/100 ml and not more than 10 percent of the samples shall exceed 230/100 ml.

[2] Fecal coliform density shall not exceed a geometric mean of 200/100 ml. Enterococcus density shall not exceed a geometric mean of 35/100 ml.
[3] Fecal coliform density in a single sample shall not exceed 400/100 ml. Enterococcus density shall not exceed a geometric mean of 104/100 ml.

II. LOS ANGELES RIVER WATERSHED MANAGEMENT AREA

Table G-5. Action Levels for Discharges to Inland Surface Waters, Enclosed Bays, and Estuaries (with receiving water salinity equal to or less than 1 ppt)

Parameter	Units	Average Monthly	Daily Maximum
pH	Standard units	6.5-8.5[1]	
E. coli Bacteria	#/100 ml	126[2]	235[3]
Chloride	mg/L	[4]	--
Nitrite Nitrogen, Total (as N)	mg/L	1.0[5]	--
Sulfate	mg/L	[4]	--
Total Dissolved Solids	mg/L	[4]	--
Turbidity	NTU	5[5]	--
Aluminum, Total Recoverable	mg/L	1.0[5]	--
Cyanide, Total Recoverable	µg/L	4.3	8.5
Copper, Total Recoverable	µg/L	[6]	[6]
Mercury, Total Recoverable	µg/L	0.051	0.10
Selenium, Total Recoverable	µg/L	4.1	8.2

[1] Within the range of 6.5 to 8.5 at all times.
[2] *E. coli* density shall not exceed a geometric mean of 126/100 ml.
[3] *E. coli* density in a single sample shall not exceed 235/100 ml.
[4] In accordance with applicable water quality objectives contained in Chapter 3 of the Basin Plan.
[5] Applicable only to discharges to receiving waters or receiving waters with underlying groundwater designated for Municipal and Domestic Supply (MUN) use as specified in Tables 2-1 and 2-2 of the Basin Plan.
[6] Action levels are hardness dependent. See Section VII of this Attachment for a listing of the applicable action levels.

Table G-6. Action Levels for Discharges to Inland Surface Waters, Enclosed Bays, and Estuaries (with receiving water salinity between 1 ppt and 10 ppt)

Parameter	Units	Average Monthly	Daily Maximum
pH	Standard units	6.5-8.5[1]	
E. coli Bacteria	#/100 ml	126[2]	235[3]
Total Coliform Bacteria	#/100 ml	1,000[4]	10,000[5]
Fecal Coliform Bacteria	#/100 ml	200[4]	400[5]
Enterococcus Bacteria	#/100 ml	35[4]	104[5]
Chloride	mg/L	[6]	--
Nitrite Nitrogen, Total (as N)	mg/L	1.0[7]	--
Sulfate	mg/L	[6]	--
Total Dissolved Solids	mg/L	[6]	--
Turbidity	NTU	5[7]	--
Aluminum, Total Recoverable	mg/L	1.0[7]	--
Cyanide, Total Recoverable	µg/L	0.50	1.0
Copper, Total Recoverable	µg/L	[8]	[8]

Parameter	Units	Average Monthly	Daily Maximum
Mercury, Total Recoverable	µg/L	0.051	0.10
Selenium, Total Recoverable	µg/L	4.1	8.2

[1] Within the range of 6.5 to 8.5 at all times.
[2] *E. coli* density shall not exceed a geometric mean of 126/100 ml.
[3] *E. coli* density in a single sample shall not exceed 235/100 ml.
[4] Total coliform density shall not exceed a geometric mean of 1,000/100 ml. Fecal coliform density shall not exceed a geometric mean of 200/100 ml. Enterococcus density shall not exceed a geometric mean of 35/100 ml.
[5] Total coliform density in a single sample shall not exceed 10,000/100 ml. Fecal coliform density in a single sample shall not exceed 400/100 ml. Enterococcus density shall not exceed a geometric mean of 104/100 ml.
[6] In accordance with applicable water quality objectives contained in Chapter 3 of the Basin Plan.
[7] Applicable only to discharges to receiving waters or receiving waters with underlying groundwater designated for Municipal and Domestic Supply (MUN) use as specified in Tables 2-1 and 2-2 of the Basin Plan.
[8] The applicable action level is the most stringent between corresponding Table G-5 and Table G-7 action levels.

Table G-7. Action Levels for Discharges to Inland Surface Waters, Enclosed Bays, and Estuaries (with receiving water salinity equal to or greater than 10 ppt 95% or more of the time)

Parameter	Units	Average Monthly	Daily Maximum
pH	Standard units	6.5-8.5[1]	
Total Coliform Bacteria	#/100 ml	1,000[2, 3]	10,000[3, 4]
Fecal Coliform Bacteria	#/100 ml	200[2]	400[4]
Enterococcus Bacteria	#/100 ml	35[2]	104[4]
Chloride	mg/L	[5]	--
Nitrite Nitrogen, Total (as N)	mg/L	1.0[6]	--
Sulfate	mg/L	[5]	--
Total Dissolved Solids	mg/L	[5]	--
Turbidity	NTU	5[6]	--
Aluminum, Total Recoverable	mg/L	1.0[6]	--
Cyanide, Total Recoverable	µg/L	0.50	1.0
Copper, Total Recoverable	µg/L	2.9	5.8
Mercury, Total Recoverable	µg/L	0.051	0.10
Selenium, Total Recoverable	µg/L	58	117

[1] Within the range of 6.5 to 8.5 at all times.
[2] Total coliform density shall not exceed a geometric mean of 1,000/100 ml. Fecal coliform density shall not exceed a geometric mean of 200/100 ml. Enterococcus density shall not exceed a geometric mean of 35/100 ml.
[3] In areas where shellfish may be harvested for human consumption, as determined by the Regional Water Board, the median total coliform density shall not exceed 70/100 ml and not more than 10 percent of the samples shall exceed 230/100 ml.
[4] Total coliform density in a single sample shall not exceed 10,000/100 ml. Fecal coliform density in a single sample shall not exceed 400/100 ml. Enterococcus density shall not exceed a geometric mean of 104/100 ml.
[5] In accordance with applicable water quality objectives contained in Chapter 3 of the Basin Plan.
[6] Applicable only to discharges to receiving waters or receiving waters with underlying groundwater designated for Municipal and Domestic Supply (MUN) use as specified in Tables 2-1 and 2-2 of the Basin Plan.

Table G-8. Action Levels for Discharges to Ocean Waters (Surf Zone)

Parameter	Units	6-Month Median	Daily Maximum	Instantaneous Maximum
pH	Standard units	6.0-9.0[1]		
Total Coliform Bacteria	#/100 ml	70[2]	230[2]	--
Fecal Coliform Bacteria	#/100 ml	--	200[3]	400[4]
Enterococcus Bacteria	#/100 ml	--	35[3]	104[4]
Turbidity	NTU	75	100	225
Cyanide, Total Recoverable	µg/L	1	4	10
Copper, Total Recoverable	µg/L	3	12	30
Mercury, Total Recoverable	µg/L	0.04	0.16	0.4
Selenium, Total Recoverable	µg/L	15	60	150

[1] Within the range of 6.0 to 9.0 at all times.
[2] In areas where shellfish may be harvested for human consumption, as determined by the Regional Water Board, the median total coliform density shall not exceed 70/100 ml and not more than 10 percent of the samples shall exceed 230/100 ml.
[3] Fecal coliform density shall not exceed a geometric mean of 200/100 ml. Enterococcus density shall not exceed a geometric mean of 35/100 ml.
[4] Fecal coliform density in a single sample shall not exceed 400/100 ml. Enterococcus density shall not exceed a geometric mean of 104/100 ml.

III. DOMINGUEZ CHANNEL WATERSHED MANAGEMENT AREA

Table G-9. Action Levels for Discharges to Inland Surface Waters, Enclosed Bays, and Estuaries (with receiving water salinity equal to or less than 1 ppt)

Parameter	Units	Average Monthly	Daily Maximum
pH	Standard units	6.5-8.5[1]	
E. coli Bacteria	#/100 ml	126[2]	235[3]
Cyanide, Total Recoverable	µg/L	4.3	8.5
Copper, Total Recoverable	µg/L	[4]	[4]
Lead, Total Recoverable	µg/L	[4]	[4]
Mercury, Total Recoverable	µg/L	0.051	0.10
Selenium, Total Recoverable	µg/L	4.1	8.2

[1] Within the range of 6.5 to 8.5 at all times.
[2] *E. coli* density shall not exceed a geometric mean of 126/100 ml.
[3] *E. coli* density in a single sample shall not exceed 235/100 ml.
[4] Action levels are hardness dependent. See Section VII of this Attachment for a listing of the applicable action levels.

Table G-10. Action Levels for Discharges to Inland Surface Waters, Enclosed Bays, and Estuaries (with receiving water salinity between 1 ppt and 10 ppt)

Parameter	Units	Average Monthly	Daily Maximum
pH	s.u	6.5-8.5[1]	
E. coli Bacteria	#/100 ml	126[2]	235[3]
Total Coliform Bacteria	#/100 ml	1,000[4]	10,000[5]

Parameter	Units	Average Monthly	Daily Maximum
Fecal Coliform Bacteria	#/100 ml	200[4]	400[5]
Enterococcus Bacteria	#/100 ml	35[4]	104[5]
Cyanide, Total Recoverable	µg/L	0.50	1.0
Copper, Total Recoverable	µg/L	[6]	[6]
Lead, Total Recoverable	µg/L	[6]	[6]
Mercury, Total Recoverable	µg/L	0.051	0.10
Selenium, Total Recoverable	µg/L	4.1	8.2

[1] Within the range of 6.5 to 8.5 at all times.
[2] *E. coli* density shall not exceed a geometric mean of 126/100 ml.
[3] *E. coli* density in a single sample shall not exceed 235/100 ml.
[4] Total coliform density shall not exceed a geometric mean of 1,000/100 ml. Fecal coliform density shall not exceed a geometric mean of 200/100 ml. Enterococcus density shall not exceed a geometric mean of 35/100 ml.
[5] Total coliform density in a single sample shall not exceed 10,000/100 ml. Fecal coliform density in a single sample shall not exceed 400/100 ml. Enterococcus density shall not exceed a geometric mean of 104/100 ml.
[6] The applicable action level is the most stringent between corresponding Table G-9 and Table G-11 action levels.

Table G-11. Action Levels for Discharges to Inland Surface Waters, Enclosed Bays, and Estuaries (with receiving water salinity equal to or greater than 10 ppt 95% or more of the time)

Parameter	Units	Average Monthly	Daily Maximum
pH	s.u	6.5-8.5[1]	
Total Coliform Bacteria	#/100 ml	1,000[2, 3]	10,000[3, 4]
Fecal Coliform Bacteria	#/100 ml	200[2]	400[4]
Enterococcus Bacteria	#/100 ml	35[2]	104[4]
Cyanide, Total Recoverable	µg/L	0.50	1.0
Copper, Total Recoverable	µg/L	2.9	5.8
Lead, Total Recoverable	µg/L	7.0	14
Mercury, Total Recoverable	µg/L	0.051	0.10
Selenium, Total Recoverable	µg/L	58	117

[1] Within the range of 6.5 to 8.5 at all times.
[2] Total coliform density shall not exceed a geometric mean of 1,000/100 ml. Fecal coliform density shall not exceed a geometric mean of 200/100 ml. Enterococcus density shall not exceed a geometric mean of 35/100 ml.
[3] In areas where shellfish may be harvested for human consumption, as determined by the Regional Water Board, the median total coliform density shall not exceed 70/100 ml and not more than 10 percent of the samples shall exceed 230/100 ml.
[4] Total coliform density in a single sample shall not exceed 10,000/100 ml. Fecal coliform density in a single sample shall not exceed 400/100 ml. Enterococcus density shall not exceed a geometric mean of 104/100 ml.

Table G-12. Action Levels for Discharges to Ocean Waters (Surf Zone)

Parameter	Units	6-Month Median	Daily Maximum	Instantaneous Maximum
pH	s.u	6.0-9.0[1]		
Total Coliform Bacteria	#/100 ml	70[2]	230[2]	--
Fecal Coliform Bacteria	#/100 ml	--	200[3]	400[4]
Enterococcus Bacteria	#/100 ml	--	35[3]	104[4]
Cyanide, Total Recoverable	µg/L	1	4	10
Copper, Total Recoverable	µg/L	3	12	30

Parameter	Units	6-Month Median	Daily Maximum	Instantaneous Maximum
Lead, Total Recoverable	µg/L	2	8	20
Mercury, Total Recoverable	µg/L	0.04	0.16	0.4
Selenium, Total Recoverable	µg/L	15	60	150

[1] Within the range of 6.0 to 9.0 at all times.
[2] In areas where shellfish may be harvested for human consumption, as determined by the Regional Water Board, the median total coliform density shall not exceed 70/100 ml and not more than 10 percent of the samples shall exceed 230/100 ml.
[3] Fecal coliform density shall not exceed a geometric mean of 200/100 ml. Enterococcus density shall not exceed a geometric mean of 35/100 ml.
[4] Fecal coliform density in a single sample shall not exceed 400/100 ml. Enterococcus density shall not exceed a geometric mean of 104/100 ml.

IV. BALLONA CREEK WATERSHED MANAGEMENT AREA

Table G-13. Action Levels for Discharges to Inland Surface Waters, Enclosed Bays, and Estuaries (with receiving water salinity equal to or less than 1 ppt)

Parameter	Units	Average Monthly	Daily Maximum
pH	Standard units	6.5-8.5[1]	
E. coli Bacteria	#/100 ml	126[2]	235[3]
Cyanide, Total Recoverable	µg/L	4.3	8.5
Copper, Total Recoverable	µg/L	[4]	[4]
Lead, Total Recoverable	µg/L	[4]	[4]
Mercury, Total Recoverable	µg/L	0.051	0.10
Selenium, Total Recoverable	µg/L	4.1	8.2

[1] Within the range of 6.5 to 8.5 at all times.
[2] *E. coli* density shall not exceed a geometric mean of 126/100 ml.
[3] *E. coli* density in a single sample shall not exceed 235/100 ml.
[4] Action levels are hardness dependent. See Section VII of this Attachment for a listing of the applicable action levels.

Table G-14. Action Levels for Discharges to Inland Surface Waters, Enclosed Bays, and Estuaries (with receiving water salinity between 1 ppt and 10 ppt)

Parameter	Units	Average Monthly	Daily Maximum
pH	Standard units	6.5-8.5[1]	
E. coli Bacteria	#/100 ml	126[2]	235[3]
Total Coliform Bacteria	#/100 ml	1,000[4]	10,000[5]
Fecal Coliform Bacteria	#/100 ml	200[4]	400[5]
Enterococcus Bacteria	#/100 ml	35[4]	104[5]
Cyanide	µg/L	0.50	1.0
Copper, Total Recoverable	µg/L	[6]	[6]
Lead, Total Recoverable	µg/L	[6]	[6]
Mercury, Total Recoverable	µg/L	0.051	0.1
Selenium, Total Recoverable	µg/L	4.1	8.2

[1] Within the range of 6.5 to 8.5 at all times.
[2] *E. coli* density shall not exceed a geometric mean of 126/100 ml.

[3] *E. coli* density in a single sample shall not exceed 235/100 ml.
[4] Total coliform density shall not exceed a geometric mean of 1,000/100 ml. Fecal coliform density shall not exceed a geometric mean of 200/100 ml. Enterococcus density shall not exceed a geometric mean of 35/100 ml.
[5] Total coliform density in a single sample shall not exceed 10,000/100 ml. Fecal coliform density in a single sample shall not exceed 400/100 ml. Enterococcus density shall not exceed a geometric mean of 104/100 ml.
[6] The applicable action level is the most stringent between corresponding Table G-13 and Table G-15 action levels.

Table G-15. Action Levels for Discharges to Inland Surface Waters, Enclosed Bays, and Estuaries (with receiving water salinity equal to or greater than 10 ppt 95% or more of the time)

Parameter	Units	Average Monthly	Daily Maximum
pH	Standard units	6.5-8.5[1]	
Total Coliform Bacteria	#/100 ml	1,000[2, 3]	10,000[3, 4]
Fecal Coliform Bacteria	#/100 ml	200[2]	400[4]
Enterococcus Bacteria	#/100 ml	35[2]	104[4]
Cyanide, Total Recoverable	µg/L	0.50	1.0
Copper, Total Recoverable	µg/L	2.9	5.8
Lead, Total Recoverable	µg/L	7.0	14
Mercury, Total Recoverable	µg/L	0.051	0.1
Selenium, Total Recoverable	µg/L	58	117

[1] Within the range of 6.5 to 8.5 at all times.
[2] Total coliform density shall not exceed a geometric mean of 1,000/100 ml. Fecal coliform density shall not exceed a geometric mean of 200/100 ml. Enterococcus density shall not exceed a geometric mean of 35/100 ml.
[3] In areas where shellfish may be harvested for human consumption, as determined by the Regional Water Board, the median total coliform density shall not exceed 70/100 ml and not more than 10 percent of the samples shall exceed 230/100 ml.
[4] Total coliform density in a single sample shall not exceed 10,000/100 ml. Fecal coliform density in a single sample shall not exceed 400/100 ml. Enterococcus density shall not exceed a geometric mean of 104/100 ml.

Table G-16. Action Levels for Discharges to Ocean Waters (Surf Zone)

Parameter	Units	6-Month Median	Daily Maximum	Instantaneous Maximum
pH	Standard units	6.0-9.0[1]		
Total Coliform Bacteria	#/100 ml	70[2]	230[2]	--
Fecal Coliform Bacteria	#/100 ml	--	200[3]	400[4]
Enterococcus Bacteria	#/100 ml	--	35[3]	104[4]
Cyanide, Total Recoverable	µg/L	1	4	10
Copper, Total Recoverable	µg/L	3	12	30
Lead, Total Recoverable	µg/L	2	8	20
Mercury, Total Recoverable	µg/L	0.04	0.16	0.4
Selenium, Total Recoverable	µg/L	15	60	150

[1] Within the range of 6.0 to 9.0 at all times.
[2] In areas where shellfish may be harvested for human consumption, as determined by the Regional Water Board, the median total coliform density shall not exceed 70/100 ml and not more than 10 percent of the samples shall exceed 230/100 ml.
[3] Fecal coliform density shall not exceed a geometric mean of 200/100 ml. Enterococcus density shall not exceed a geometric mean of 35/100 ml.

[4] Fecal coliform density in a single sample shall not exceed 400/100 ml. Enterococcus density shall not exceed a geometric mean of 104/100 ml.

V. MALIBU CREEK WATERSHED MANAGEMENT AREA NON-STORM WATER ACTION LEVELS

Table G-17. Action Levels for Discharges to Inland Surface Waters, Enclosed Bays, and Estuaries (with receiving water salinity equal to or less than 1 ppt)

Parameter	Units	Average Monthly	Daily Maximum
E. coli Bacteria	#/100 ml	126[1]	235[2]
Sulfate	mg/L	[3]	--
Total Dissolved Solids	mg/L	[3]	--
Cyanide, Total Recoverable	µg/L	4.3	8.5
Mercury, Total Recoverable	µg/L	0.051	0.10
Selenium, Total Recoverable	µg/L	4.1	8.2

[1] *E. coli* density shall not exceed a geometric mean of 126/100 ml.
[2] *E. coli* density in a single sample shall not exceed 235/100 ml.
[3] In accordance with applicable water quality objectives contained in Chapter 3 of the Basin Plan.

Table G-18. Action Levels for Discharges to Inland Surface Waters, Enclosed Bays, and Estuaries (with receiving water salinity between 1 ppt and 10 ppt)

Parameter	Units	Average Monthly	Daily Maximum
E. coli Bacteria	#/100 ml	126[1]	235[2]
Total Coliform Bacteria	#/100 ml	1,000[3]	10,000[4]
Fecal Coliform Bacteria	#/100 ml	200[3]	400[4]
Enterococcus Bacteria	#/100 ml	35[3]	104[4]
Sulfate	mg/L	[5]	--
Total Dissolved Solids	mg/L	[5]	--
Cyanide, Total Recoverable	µg/L	0.50	1.0
Mercury, Total Recoverable	µg/L	0.051	0.10
Selenium, Total Recoverable	µg/L	4.1	8.2

[1] *E. coli* density shall not exceed a geometric mean of 126/100 ml.
[2] *E. coli* density in a single sample shall not exceed 235/100 ml.
[3] Total coliform density shall not exceed a geometric mean of 1,000/100 ml. Fecal coliform density shall not exceed a geometric mean of 200/100 ml. Enterococcus density shall not exceed a geometric mean of 35/100 ml.
[4] Total coliform density in a single sample shall not exceed 10,000/100 ml. Fecal coliform density in a single sample shall not exceed 400/100 ml. Enterococcus density shall not exceed a geometric mean of 104/100 ml.
[5] In accordance with applicable water quality objectives contained in Chapter 3 of the Basin Plan.

Table G-19. Action Levels for Discharges to Inland Surface Waters, Enclosed Bays, and Estuaries (with receiving water salinity equal to or greater than 10 ppt 95% or more of the time)

Parameter	Units	Average Monthly	Daily Maximum
Total Coliform Bacteria	#/100 ml	1,000[1, 2]	10,000[2, 3]
Fecal Coliform Bacteria	#/100 ml	200[1]	400[3]
Enterococcus Bacteria	#/100 ml	35[1]	104[3]
Sulfate	mg/L	[4]	--
Total Dissolved Solids	mg/L	[4]	--

Parameter	Units	Average Monthly	Daily Maximum
Cyanide, Total Recoverable	µg/L	0.50	1.0
Mercury, Total Recoverable	µg/L	0.051	0.10
Selenium, Total Recoverable	µg/L	58	117

[1] Total coliform density shall not exceed a geometric mean of 1,000/100 ml. Fecal coliform density shall not exceed a geometric mean of 200/100 ml. Enterococcus density shall not exceed a geometric mean of 35/100 ml.
[2] In areas where shellfish may be harvested for human consumption, as determined by the Regional Water Board, the median total coliform density shall not exceed 70/100 ml and not more than 10 percent of the samples shall exceed 230/100 ml.
[3] Total coliform density in a single sample shall not exceed 10,000/100 ml. Fecal coliform density in a single sample shall not exceed 400/100 ml. Enterococcus density shall not exceed a geometric mean of 104/100 ml.
[4] In accordance with applicable water quality objectives contained in Chapter 3 of the Basin Plan.

Table G-20. Action Levels for Discharges to Ocean Waters (Surf Zone)

Parameter	Units	6-Month Median	Daily Maximum	Instantaneous Maximum
Total Coliform Bacteria	#/100 ml	70[1]	230[1]	--
Fecal Coliform Bacteria	#/100 ml	--	200[2]	400[3]
Enterococcus Bacteria	#/100 ml	--	35[2]	104[3]
Cyanide, Total Recoverable	µg/L	1	4	10
Mercury, Total Recoverable	µg/L	0.04	0.16	0.4
Selenium, Total Recoverable	µg/L	15	60	150

[1] In areas where shellfish may be harvested for human consumption, as determined by the Regional Water Board, the median total coliform density shall not exceed 70/100 ml and not more than 10 percent of the samples shall exceed 230/100 ml.
[2] Fecal coliform density shall not exceed a geometric mean of 200/100 ml. Enterococcus density shall not exceed a geometric mean of 35/100 ml.
[3] Fecal coliform density in a single sample shall not exceed 400/100 ml. Enterococcus density shall not exceed a geometric mean of 104/100 ml.

VI. SAN GABRIEL RIVER WATERSHED MANAGEMENT AREA

Table G-21. Action Levels for Discharges to Inland Surface Waters, Enclosed Bays, and Estuaries (with receiving water salinity equal to or less than 1 ppt)

Parameter	Units	Average Monthly	Daily Maximum
pH	Standard units	6.0-9.0[1]	
E. coli Bacteria	#/100 ml	126[2]	235[3]
Chloride	mg/L	[4]	--
Nitrate Nitrogen, Total (as N)	mg/L	[4]	--
Sulfate	mg/L	[4]	--
Total Dissolved Solids	mg/L	[4]	--
Aluminum, Total Recoverable	mg/L	1.0[5]	--
Cyanide, Total Recoverable	µg/L	4.3	8.5
Cadmium, Total Recoverable	µg/L	[6]	[6]

Parameter	Units	Average Monthly	Daily Maximum
Copper, Total Recoverable	µg/L	[6]	[6]
Lead, Total Recoverable	µg/L	[6]	[6]
Mercury, Total Recoverable	µg/L	0.051	0.10
Nickel, Total Recoverable	µg/L	[6]	[6]
Selenium, Total Recoverable	µg/L	4.1	8.2
Silver, Total Recoverable	µg/L	[6]	[6]
Zinc, Total Recoverable	µg/L	[6]	[6]

[1] Within the range of 6.5 to 8.5 at all times.
[2] *E. coli* density shall not exceed a geometric mean of 126/100 ml.
[3] *E. coli* density in a single sample shall not exceed 235/100 ml.
[4] In accordance with applicable water quality objectives contained in Chapter 3 of the Basin Plan.
[5] Applicable only to discharges to receiving waters or receiving waters with underlying groundwater designated for Municipal and Domestic Supply (MUN) use as specified in Tables 2-1 and 2-2 of the Basin Plan.
[6] Action levels are hardness dependent. See Section VII of this Attachment for a listing of the applicable action levels.

Table G-22. Action Levels for Discharges to Inland Surface Waters, Enclosed Bays, and Estuaries (with receiving water salinity between 1 ppt and 10 ppt)

Parameter	Units	Average Monthly	Daily Maximum
pH	Standard units	6.0-9.0[1]	
E. coli Bacteria	#/100 ml	126[2]	235[3]
Total Coliform Bacteria	#/100 ml	1,000[4]	10,000[5]
Fecal Coliform Bacteria	#/100 ml	200[4]	400[5]
Enterococcus Bacteria	#/100 ml	35[4]	104[5]
Chloride	mg/L	[6]	--
Nitrate Nitrogen, Total (as N)	mg/L	[6]	--
Sulfate	mg/L	[6]	--
Total Dissolved Solids	mg/L	[6]	--
Aluminum, Total Recoverable	mg/L	1.0[7]	--
Cyanide, Total Recoverable	µg/L	0.50	1.0
Cadmium, Total Recoverable	µg/L	[8]	[8]
Copper, Total Recoverable	µg/L	[8]	[8]
Lead, Total Recoverable	µg/L	[8]	[8]
Mercury, Total Recoverable	µg/L	0.051	0.10
Nickel, Total Recoverable	µg/L	[8]	[8]
Selenium, Total Recoverable	µg/L	4.1	8.2
Silver, Total Recoverable	µg/L	[8]	[8]
Zinc, Total Recoverable	µg/L	[8]	[8]

[1] Within the range of 6.5 to 8.5 at all times.
[2] *E. coli* density shall not exceed a geometric mean of 126/100 ml.
[3] *E. coli* density in a single sample shall not exceed 235/100 ml.
[4] Total coliform density shall not exceed a geometric mean of 1,000/100 ml. Fecal coliform density shall not exceed a geometric mean of 200/100 ml. Enterococcus density shall not exceed a geometric mean of 35/100 ml.
[5] Total coliform density in a single sample shall not exceed 10,000/100 ml. Fecal coliform density in a single sample shall not exceed 400/100 ml. Enterococcus density shall not exceed a geometric mean of 104/100 ml.
[6] In accordance with applicable water quality objectives contained in Chapter 3 of the Basin Plan.
[7] Applicable only to discharges to receiving waters designated for Municipal and Domestic Supply (MUN) use as specified in Tables 2-1 and 2-2 of the Basin Plan.
[8] The applicable action level is the most stringent between corresponding Table G-21 and Table G-23 action levels.

Table G-23. Action Levels for Discharges to Inland Surface Waters, Enclosed Bays, and Estuaries (with receiving water salinity equal to or greater than 10 ppt 95% or more of the time)

Parameter	Units	Average Monthly	Daily Maximum
pH	Standard units	6.0-9.0[1]	
Total Coliform Bacteria	#/100 ml	1,000[2, 3]	10,000[2, 4]
Fecal Coliform Bacteria	#/100 ml	200[2]	400[4]
Enterococcus Bacteria	#/100 ml	35[2]	104[4]
Chloride	mg/L	[5]	--
Nitrate Nitrogen, Total (as N)	mg/L	[5]	--
Sulfate	mg/L	[5]	--
Total Dissolved Solids	mg/L	[5]	--
Aluminum, Total Recoverable	mg/L	1.0[6]	--
Cyanide, Total Recoverable	µg/L	0.50	1.0
Cadmium, Total Recoverable	µg/L	7.7	15
Copper, Total Recoverable	µg/L	2.9	5.8
Lead, Total Recoverable	µg/L	7.0	14
Mercury, Total Recoverable	µg/L	0.051	0.10
Nickel, Total Recoverable	µg/L	6.8	14
Silver, Total Recoverable	µg/L	1.1	2.2
Selenium, Total Recoverable	µg/L	58	117
Zinc, Total Recoverable	µg/L	47	95

[1] Within the range of 6.5 to 8.5 at all times.

[2] Total coliform density shall not exceed a geometric mean of 1,000/100 ml. Fecal coliform density shall not exceed a geometric mean of 200/100 ml. Enterococcus density shall not exceed a geometric mean of 35/100 ml.

[3] In areas where shellfish may be harvested for human consumption, as determined by the Regional Water Board, the median total coliform density shall not exceed 70/100 ml and not more than 10 percent of the samples shall exceed 230/100 ml.

[4] Total coliform density in a single sample shall not exceed 10,000/100 ml. Fecal coliform density in a single sample shall not exceed 400/100 ml. Enterococcus density shall not exceed a geometric mean of 104/100 ml.

[5] In accordance with applicable water quality objectives contained in Chapter 3 of the Basin Plan.

[6] Applicable only to discharges to receiving waters designated for Municipal and Domestic Supply (MUN) use as specified in Tables 2-1 and 2-2 of the Basin Plan.

Table G-24. Action Levels for Discharges to Ocean Waters (Surf Zone)

Parameter	Units	6-Month Median	Daily Maximum	Instantaneous Maximum
pH	Standard units	6.0-9.0[1]		
Total Coliform Bacteria	#/100 ml	70[2]	230[2]	--
Fecal Coliform Bacteria	#/100 ml	--	200[3]	400[4]
Enterococcus	#/100 ml	--	35[3]	104[4]
Cyanide, Total Recoverable	µg/L	1	4	10
Cadmium, Total Recoverable	µg/L	1	4	10
Copper, Total Recoverable	µg/L	3	12	30

Parameter	Units	6-Month Median	Daily Maximum	Instantaneous Maximum
Lead, Total Recoverable	µg/L	2	8	20
Mercury, Total Recoverable	µg/L	0.04	0.16	0.4
Nickel, Total Recoverable	µg/L	5	20	50
Silver, Total Recoverable	µg/L	0.7	2.8	7.0
Selenium, Total Recoverable	µg/L	15	60	150
Zinc, Total Recoverable	µg/L	20	80	200

[1] Within the range of 6.0 to 9.0 at all times.
[2] In areas where shellfish may be harvested for human consumption, as determined by the Regional Water Board, the median total coliform density shall not exceed 70/100 ml and not more than 10 percent of the samples shall exceed 230/100 ml.
[3] Fecal coliform density shall not exceed a geometric mean of 200/100 ml. Enterococcus density shall not exceed a geometric mean of 35/100 ml.
[4] Fecal coliform density in a single sample shall not exceed 400/100 ml. Enterococcus density shall not exceed a geometric mean of 104/100 ml.

VII. HARDNESS-BASED ACTION LEVELS FOR METALS

Cadmium, Total Recoverable								
Hardness (mg/L as $CaCO_3$)	AMAL (µg/L)	MDAL (µg/L)	Hardness (mg/L as CaCO3)	AMAL (µg/L)	MDAL (µg/L)	Hardness (mg/L as $CaCO_3$)	AMAL (µg/L)	MDAL (µg/L)
5.0	0.1	0.2	125.0	2.4	4.8	245.0	4.1	8.2
10.0	0.2	0.3	130.0	2.5	5.0	250.0	4.1	8.3
15.0	0.3	0.5	135.0	2.5	5.1	255.0	4.2	8.4
20.0	0.4	0.7	140.0	2.6	5.3	260.0	4.3	8.5
25.0	0.5	0.9	145.0	2.7	5.4	265.0	4.3	8.7
30.0	0.6	1.2	150.0	2.8	5.5	270.0	4.4	8.8
35.0	0.7	1.4	155.0	2.8	5.7	275.0	4.5	8.9
40.0	0.8	1.6	160.0	2.9	5.8	280.0	4.5	9.1
45.0	0.9	1.8	165.0	3.0	6.0	285.0	4.6	9.2
50.0	1.0	2.1	170.0	3.1	6.1	290.0	4.6	9.3
55.0	1.1	2.3	175.0	3.1	6.3	295.0	4.7	9.4
60.0	1.3	2.5	180.0	3.2	6.4	300.0	4.8	9.6
65.0	1.4	2.8	185.0	3.3	6.5	310.0	4.9	9.8
70.0	1.5	3.0	190.0	3.3	6.7	320.0	5.0	10.1
75.0	1.6	3.2	195.0	3.4	6.8	330.0	5.1	10.3
80.0	1.7	3.4	200.0	3.5	7.0	340.0	5.3	10.5
85.0	1.8	3.6	205.0	3.5	7.1	350.0	5.4	10.8
90.0	1.9	3.7	210.0	3.6	7.2	360.0	5.5	11.0
95.0	1.9	3.9	215.0	3.7	7.4	370.0	5.6	11.3
100.0	2.0	4.0	220.0	3.7	7.5	380.0	5.7	11.5
105.0	2.1	4.2	225.0	3.8	7.6	390.0	5.9	11.7
110.0	2.2	4.3	230.0	3.9	7.8	400.0	6.0	12.0
115.0	2.2	4.5	235.0	3.9	7.9	>400	6.0	12.0

Cadmium, Total Recoverable								
Hardness (mg/L as $CaCO_3$)	AMAL (µg/L)	MDAL (µg/L)	Hardness (mg/L as CaCO3)	AMAL (µg/L)	MDAL (µg/L)	Hardness (mg/L as $CaCO_3$)	AMAL (µg/L)	MDAL (µg/L)
120.0	2.3	4.7	240.0	4.0	8.0			

Copper, Total Recoverable								
Hardness (mg/L as $CaCO_3$)	AMAL (µg/L)	MDAL (µg/L)	Hardness (mg/L as CaCO3)	AMAL (µg/L)	MDAL (µg/L)	Hardness (mg/L as $CaCO_3$)	AMAL (µg/L)	MDAL (µg/L)
5.0	0.4	0.8	125.0	8.6	17.2	245.0	16.2	32.5
10.0	0.8	1.6	130.0	8.9	17.9	250.0	16.5	33.1
15.0	1.2	2.3	135.0	9.2	18.5	255.0	16.8	33.8
20.0	1.5	3.1	140.0	9.6	19.2	260.0	17.1	34.4
25.0	1.9	3.8	145.0	9.9	19.8	265.0	17.4	35.0
30.0	2.2	4.5	150.0	10.2	20.5	270.0	17.8	35.6
35.0	2.6	5.2	155.0	10.5	21.1	275.0	18.1	36.2
40.0	2.9	5.9	160.0	10.8	21.8	280.0	18.4	36.9
45.0	3.3	6.6	165.0	11.2	22.4	285.0	18.6	37.4
50.0	3.6	7.3	170.0	11.5	23.0	290.0	18.9	38.0
55.0	4.0	8.0	175.0	11.8	23.7	295.0	19.2	38.5
60.0	4.3	8.6	180.0	12.1	24.3	300.0	19.5	39.1
65.0	4.6	9.3	185.0	12.4	25.0	310.0	20.0	40.2
70.0	5.0	10.0	190.0	12.8	25.6	320.0	20.6	41.3
75.0	5.3	10.7	195.0	13.1	26.2	330.0	21.1	42.4
80.0	5.6	11.3	200.0	13.4	26.9	340.0	21.7	43.5
85.0	6.0	12.0	205.0	13.7	27.5	350.0	22.2	44.6
90.0	6.3	12.7	210.0	14.0	28.1	360.0	22.8	45.7
95.0	6.6	13.3	215.0	14.3	28.7	370.0	23.3	46.8
100.0	7.0	14.0	220.0	14.6	29.4	380.0	23.8	47.8
105.0	7.3	14.6	225.0	15.0	30.0	390.0	24.4	48.9
110.0	7.6	15.3	230.0	15.3	30.6	400.0	24.9	50.0
115.0	7.9	15.9	235.0	15.6	31.3	>400	24.9	50.0
120.0	8.3	16.6	240.0	15.9	31.9			

Lead, Total Recoverable								
Hardness (mg/L as $CaCO_3$)	AMAL (µg/L)	MDAL (µg/L)	Hardness (mg/L as CaCO3)	AMAL (µg/L)	MDAL (µg/L)	Hardness (mg/L as $CaCO_3$)	AMAL (µg/L)	MDAL (µg/L)
5.0	0.1	0.1	125.0	3.5	6.9	245.0	8.1	16.3
10.0	0.1	0.3	130.0	3.6	7.3	250.0	8.3	16.7
15.0	0.2	0.5	135.0	3.8	7.6	255.0	8.6	17.2
20.0	0.3	0.7	140.0	4.0	8.0	260.0	8.8	17.6
25.0	0.4	0.9	145.0	4.2	8.4	265.0	9.0	18.0
30.0	0.6	1.1	150.0	4.4	8.7	270.0	9.2	18.5
35.0	0.7	1.4	155.0	4.5	9.1	275.0	9.4	18.9
40.0	0.8	1.6	160.0	4.7	9.5	280.0	9.6	19.3

Lead, Total Recoverable								
Hardness (mg/L as $CaCO_3$)	AMAL (µg/L)	MDAL (µg/L)	Hardness (mg/L as CaCO3)	AMAL (µg/L)	MDAL (µg/L)	Hardness (mg/L as $CaCO_3$)	AMAL (µg/L)	MDAL (µg/L)
45.0	0.9	1.9	165.0	4.9	9.9	285.0	9.9	19.8
50.0	1.1	2.2	170.0	5.1	10.2	290.0	10.1	20.2
55.0	1.2	2.4	175.0	5.3	10.6	295.0	10.3	20.7
60.0	1.4	2.7	180.0	5.5	11.0	300.0	10.5	21.1
65.0	1.5	3.0	185.0	5.7	11.4	310.0	11.0	22.0
70.0	1.7	3.3	190.0	5.9	11.8	320.0	11.4	22.9
75.0	1.8	3.6	195.0	6.1	12.2	330.0	11.9	23.8
80.0	2.0	3.9	200.0	6.3	12.6	340.0	12.3	24.8
85.0	2.1	4.2	205.0	6.5	13.0	350.0	12.8	25.7
90.0	2.3	4.6	210.0	6.7	13.4	360.0	13.3	26.6
95.0	2.4	4.9	215.0	6.9	13.8	370.0	13.7	27.6
100.0	2.6	5.2	220.0	7.1	14.2	380.0	14.2	28.5
105.0	2.8	5.5	225.0	7.3	14.6	390.0	14.7	29.5
110.0	2.9	5.9	230.0	7.5	15.1	400.0	15.2	30.5
115.0	3.1	6.2	235.0	7.7	15.5	>400	15.2	30.5
120.0	3.3	6.6	240.0	7.9	15.9			

Nickel, Total Recoverable								
Hardness (mg/L as $CaCO_3$)	AMAL (µg/L)	MDAL (µg/L)	Hardness (mg/L as CaCO3)	AMAL (µg/L)	MDAL (µg/L)	Hardness (mg/L as $CaCO_3$)	AMAL (µg/L)	MDAL (µg/L)
5.0	3.4	6.8	125.0	51.5	103.3	245.0	90.9	182.5
10.0	6.1	12.2	130.0	53.2	106.7	250.0	92.5	185.6
15.0	8.6	17.2	135.0	54.9	110.2	255.0	94.1	188.7
20.0	10.9	21.9	140.0	56.6	113.6	260.0	95.6	191.9
25.0	13.2	26.5	145.0	58.3	117.1	265.0	97.2	195.0
30.0	15.4	30.9	150.0	60.0	120.5	270.0	98.7	198.1
35.0	17.5	35.2	155.0	61.7	123.9	275.0	100.3	201.2
40.0	19.6	39.4	160.0	63.4	127.2	280.0	101.8	204.3
45.0	21.7	43.5	165.0	65.1	130.6	285.0	103.3	207.4
50.0	23.7	47.6	170.0	66.8	133.9	290.0	104.9	210.4
55.0	25.7	51.6	175.0	68.4	137.3	295.0	106.4	213.5
60.0	27.7	55.5	180.0	70.1	140.6	300.0	107.9	216.6
65.0	29.6	59.4	185.0	71.7	143.9	310.0	111.0	222.7
70.0	31.5	63.2	190.0	73.3	147.1	320.0	114.0	228.7
75.0	33.4	67.0	195.0	75.0	150.4	330.0	117.0	234.7
80.0	35.3	70.8	200.0	76.6	153.7	340.0	120.0	240.7
85.0	37.1	74.5	205.0	78.2	156.9	350.0	123.0	246.7
90.0	39.0	78.2	210.0	79.8	160.2	360.0	125.9	252.7
95.0	40.8	81.9	215.0	81.4	163.4	370.0	128.9	258.6
100.0	42.6	85.5	220.0	83.0	166.6	380.0	131.8	264.5
105.0	44.4	89.1	225.0	84.6	169.8	390.0	134.8	270.4
110.0	46.2	92.7	230.0	86.2	173.0	400.0	137.7	276.2
115.0	48.0	96.2	235.0	87.8	176.1	>400	137.7	276.2

Nickel, Total Recoverable								
Hardness (mg/L as $CaCO_3$)	**AMAL (µg/L)**	**MDAL (µg/L)**	**Hardness (mg/L as CaCO3)**	**AMAL (µg/L)**	**MDAL (µg/L)**	**Hardness (mg/L as $CaCO_3$)**	**AMAL (µg/L)**	**MDAL (µg/L)**
120.0	49.7	99.8	240.0	89.4	179.3			

Zinc, Total Recoverable								
Hardness (mg/L as $CaCO_3$)	**AMAL (µg/L)**	**MDAL (µg/L)**	**Hardness (mg/L as CaCO3)**	**AMAL (µg/L)**	**MDAL (µg/L)**	**Hardness (mg/L as $CaCO_3$)**	**AMAL (µg/L)**	**MDAL (µg/L)**
5.0	4.7	9.4	125.0	72.0	144.5	245.0	127.4	255.6
10.0	8.5	17.0	130.0	74.5	149.4	250.0	129.6	260.0
15.0	11.9	24.0	135.0	76.9	154.2	255.0	131.8	264.4
20.0	15.2	30.6	140.0	79.3	159.1	260.0	134.0	268.8
25.0	18.4	37.0	145.0	81.7	163.9	265.0	136.1	273.1
30.0	21.5	43.1	150.0	84.1	168.6	270.0	138.3	277.5
35.0	24.5	49.1	155.0	86.4	173.4	275.0	140.5	281.9
40.0	27.4	55.0	160.0	88.8	178.1	280.0	142.6	286.2
45.0	30.3	60.8	165.0	91.1	182.8	285.0	144.8	290.5
50.0	33.1	66.5	170.0	93.5	187.5	290.0	146.9	294.8
55.0	35.9	72.1	175.0	95.8	192.2	295.0	149.1	299.1
60.0	38.7	77.6	180.0	98.1	196.8	300.0	151.2	303.4
65.0	41.4	83.0	185.0	100.4	201.4	310.0	155.5	312.0
70.0	44.1	88.4	190.0	102.7	206.0	320.0	159.7	320.5
75.0	46.7	93.7	195.0	105.0	210.6	330.0	163.9	328.9
80.0	49.3	99.0	200.0	107.3	215.2	340.0	168.1	337.4
85.0	51.9	104.2	205.0	109.5	219.8	350.0	172.3	345.8
90.0	54.5	109.4	210.0	111.8	224.3	360.0	176.5	354.1
95.0	57.1	114.5	215.0	114.0	228.8	370.0	180.6	362.4
100.0	59.6	119.6	220.0	116.3	233.3	380.0	184.8	370.7
105.0	62.1	124.7	225.0	118.5	237.8	390.0	188.9	379.0
110.0	64.6	129.7	230.0	120.7	242.3	400.0	193.0	387.2
115.0	67.1	134.7	235.0	123.0	246.7	>400	193.0	387.2
120.0	69.6	139.6	240.0	125.2	251.2			

VIII. MUNICIPAL ACTION LEVELS

Conventional Pollutants

Pollutants	pH	TSS mg/L	COD mg/L	Kjedahl Nitrogen (TKN) mg/L	Nitrate & Nitrite-total mg/L	P- total mg/L
Municipal Action Level	6.0-9.0	264.1	247.5	4.59	1.85	0.80

Metals

Pollutants	Cd- total µg/L	Cr-total µg/L	Cu- total µg/L	Pb- total µg/L	Ni- total µg/L	Zn- total µg/L	Hg- total µg/L
Municipal Action Level	2.52	20.20	71.12	102.00	27.43	641.3	0.32

This Order establishes Municipal Action Levels (MALs) to identify subwatersheds requiring additional Best Management Practices (BMPs) to reduce pollutant loads and prioritize implementation of additional BMPs. MALs for selected pollutants are based on nationwide Phase I MS4 monitoring data for pollutants in storm water (http://unix.eng.ua.edu/~rpitt/Research/Research.shtml, last visited on May 9, 2012). The MALs were obtained by computing the upper 25th percentile for selected pollutants using the statistical program Minitab. Non-detects were removed from the data set and all data from the database were used.

Under this Order, the Municipal Action Levels (MALs) shall be utilized by Permittees to identify subwatersheds discharging pollutants at levels in excess of the MALs. Within those subwatersheds where pollutant levels in the discharge are in excess of the MALs, Permittees shall implement controls and measures necessary to reduce the discharge of pollutants.

In order to determine if MS4 discharges are in excess of the MALs, Permittees shall conduct outfall monitoring as required in the Monitoring and Reporting Program (MRP) (Attachment E). A MAL Assessment Report shall be submitted to the Regional Water Board Executive Officer as part of the Annual Report. The MAL Assessment Report shall present the monitoring data in comparison to the applicable MALs, and identify those subwatersheds with a running average of twenty percent or greater of exceedances of the MALs listed in this attachment in discharges of storm water from the MS4.

Beginning in Year 3 after the effective date of this Order, each Permittee shall submit a MAL Action Plan with the Annual Report (first MAL Action Plan due with December 15, 2015 Annual Report) to the Regional Water Board Executive Officer, for those subwatersheds with a running average of twenty percent or greater of exceedances of the MALs in any discharge of

storm water from the MS4. The plan shall include an assessment of the sources responsible for the MAL exceedances, the existing storm water programs and BMPs that address those sources, an assessment of potential program enhancements, alternative BMPs and actions the Permittee shall implement to reduce discharges to a level that is equivalent to or below the MALs, and an implementation schedule for such actions for Executive Officer approval. The MAL Action Plan shall provide the technical rationale to demonstrate the proposed measures and controls will attain the MALs. If the MAL Action Plan is not approved within 90 days of the due date, the Executive Officer may establish an appropriate plan with at least 90 day notification and consultation to the Permittees.

Within 90 days of the plan approval by the Regional Water Board Executive Officer, the Permittee shall initiate the BMPs and actions proposed in the MAL Action Plan, together with any other practicable BMPs or actions that the Executive Officer determines to be necessary to meet the MALs. The Permittee shall complete the proposed actions in accordance with the approved implementation schedule.

Upon completion of the actions specified in the approved MAL Action Plan, the Permittee shall re-monitor the subject subwatershed in accordance with the MRP, and submit a Post-Project MAL Assessment Report to the Regional Water Board Executive Officer.

Implementation of an approved Watershed Management Program per Part VI.C of the Order fulfills all requirements related to the development and implementation of the MAL Action Plan.

As additional data become available through the MRP or from the Regional Subset of the National Dataset, MALs may be revised annually by the Regional Water Board Executive Officer in accordance with an equivalent statistical method as that used to establish the MALs in this attachment with at least 90 day notification and consultation to the Permittees.

ATTACHMENT H. BIORETENTION / BIOFILTRATION DESIGN CRITERIA

Note: A significant portion of the information in this appendix has been copied verbatim from the *Ventura County Technical Guidance Manual*, Updated 2011, and modified to reflect recent changes to the bioretention/biofiltration soil media specifications as adopted by the California Regional Water Quality Control Board, San Francisco Region, on November 28, 2011, Order No. R2-2011-083, Attachment L. Permittees can submit alternate Bioretention/Biofiltration Design Criteria subject to Executive Officer approval.

1. Geometry

a. Bioretention/biofiltration areas shall be sized to capture and treat the design with an 18-inch maximum ponding depth. *The intention is that the ponding depth be limited to a depth that will allow for a healthy vegetation layer.*

b. Minimum planting soil depth should be 2 feet, although 3 feet is preferred. *The intention is that the minimum planting soil depth should provide a beneficial root zone for the chosen plant palette and adequate water storage for the SWQDv.*

c. A gravel storage layer below the bioretention/biofiltraton soil media is required as necessary to provide adequate temporary storage to retain the SWQDv and to promote infiltration.

2. Drainage

a. Bioretention and biofiltration BMPs should be designed to drain below the planting soil in less than 48 hours and completely drain in less than 96 hours. *The intention is that soils must be allowed to dry out periodically in order to restore hydraulic capacity needed to receive flows from subsequent storms, maintain infiltration rates, maintain adequate soil oxygen levels for healthy soil biota and vegetation, and to provide proper soil conditions for biodegradation and retention of pollutants.*

b. *Biofiltration BMPs are designed and constructed with an underdrain. The underdrain is preferably placed near the top of the gravel storage area to promote incidental infiltration and enhanced nitrogen removal*. However, if *in-situ,* underlying soils do not provide sufficient drainage, the underdrain may need to be placed lower in the gravel storage area (within 6 inches of the bottom) to prevent the unit from holding stagnant water for extended periods of time. At many sites, clay soils will drain sufficiently fast, particularly if they are not compacted. Observing soil moisture and surface conditions in the days following a wet period may provide sufficient information for making this decision and may be more directly applicable than *in situ* or laboratory testing of soil characteristics[1].

3. Overflow

An overflow device is required at the 18-inch ponding depth. The following, or equivalent, should be provided:

a. A vertical PVC pipe (SDR 35) to act as an overflow riser.

[1] Dan Cloak, Dan Cloak Environmental Consulting to Tom Dalziel, Contra Costa County, February 22, 2011.

b. The overflow riser(s) should be 6 inches or greater in diameter, so it can be cleaned without damage to the pipe.

The inlet to the riser should be at the ponding depth (18 inches for fenced bioretention areas and 6 inches for areas that are not fenced), and be capped with a spider cap to exclude floating mulch and debris. Spider caps should be screwed in or glued, i.e., not removable.

4. Integrated Water Quality/ Flow Reduction/Resources Management Criteria

a. When calculating the capacity of an infiltration system, each Permittee shall account for the 24-hour infiltration assuming that the soil is saturated. Infiltration BMPs shall be limited to project sites where the in-situ soil or the amended on-site soils have a demonstrated infiltration rate under saturated conditions of no less than 0.3 inch per hour.

b. Bioretention BMPs shall be designed to accommodate the minimum design flow at a surface loading rate of 5 inches per hour and no greater than 12 inches per hour, and shall have a total volume, including pore spaces and pre-filter detention volume of no less than the SWQDv.

c. If rainwater harvested for use in irrigation is to be credited toward the total volume of storm water runoff retained on-site, each Permittee shall require the project proponent to conduct a conservative (assuming reasonable worst-case scenarios) assessment of water demand during the wet-weather season. This volume will be referred to as the "reliable" estimate of irrigation demand. The portion of water to be credited as retained on-site for use in irrigation shall not exceed the reliable estimate of irrigation demand.

d. Harvested rainwater must be stored in a manner that precludes the breeding of mosquitoes or other vectors or with a draw down not to exceed 96 hours.

e. When evaluating the potential for on-site retention, each Permittee shall consider the maximum potential for evapotranspiration from green roofs and rainfall harvest and use.

f. Project requirements shall address at a minimum the potential use of harvested rainwater for non-potable uses including toilet flushing, laundry, and cooling water makeup water. If the municipal, building or county health code(s) does not allow such use of harvested rainwater, each Permittee shall develop a model ordinance and submit it to the city council or County Supervisors for consideration within 24 months after the Order effective date. The model ordinances shall be based on the International Association of Plumbing and Mechanical Officials' (IAPMO's) Green Plumbing and Mechanical Code Supplement to the 2012 National Standard Plumbing Code, or similar guidance to ensure the safe and effective use of harvested rainwater, separate from the existing provisions, if any, for reclaimed wastewater. California is in the process of adopting its 2012 update to the Uniform Plumbing Code that incorporates the IAPMO Green Plumbing and Mechanical Code Supplement. If the State of California update incorporates the IAPMO Green Plumbing and Mechanical Code Supplement, Permittees are not required to adopt a mode ordinance addressing the potential use of harvested rainwater for non-potable uses including toilet flushing, laundry, and cooling water makeup water.

5. Hydraulic Restriction Layers

Infiltration pathways may need to be restricted due to the close proximity of roads, foundations, or other infrastructure. A geomembrane liner, or other equivalent water proofing, may be placed along the vertical walls to reduce lateral flows. This liner should have a minimum thickness of 30 mils. Generally, waterproof barriers should not be placed on the bottom of the biofiltration unit, as this would prevent incidental infiltration which is important to meeting the required pollutant load reduction.

6. Planting/Storage Media Specifications

a. The planting media placed in the cell should achieve a long-term, in-place infiltration rate of at least 5 inches per hour. Higher infiltration rates of up to 12 inches per hour are permissible. Bioretention/biofiltration soil shall retain sufficient moisture to support vigorous plant growth.

b. Planting media should consist of 60 to 80% fine sand and 20 to 40% compost.

c. Sand should be free of wood, waste, coating such as clay, stone dust, carbonate, etc. or any other deleterious material. All aggregate passing the No. 200 sieve size should be non-plastic. Sand for bioretention should be analyzed by an accredited lab using #200, #100, #40, #30, #16, #8, #4, and 3/8 sieves (ASTM D 422 or as approved by the local permitting authority) and meet the following gradation (Note: all sands complying with ASTM C33 for fine aggregate comply with the gradation requirements provided in Table H-1):

Table H-1. Sand Texture Specifications

	Percent Passing by Weight	
Sieve Size ASTM D422	**Minimum**	**Maximum**
3 /8 inch	100	100
No. 4	90	100
No. 8	70	100
No. 16	40	95
No. 30	15	70
No. 40	5	55
No. 110	0	15
No. 200	0	5

Note: The gradation of the sand component of the media is believed to be a major factor in the hydraulic conductivity of the media mix. If the desired hydraulic conductivity of the media cannot be achieved within the specified proportions of sand and compost (#2), then it may be necessary to utilize sand at the coarser end of the range specified in above ("minimum" column).

d. Compost should be a well decomposed, stable, weed free organic matter source derived from waste materials including yard debris, wood wastes, or other organic materials not including manure or biosolids meeting standards developed by the US Composting Council (USCC). The product shall be certified through the USCC Seal of Testing Assurance (STA) Program (a compost testing and information disclosure program). Compost quality should be verified via a lab analysis to be:

- Feedstock materials shall be specified and include one or more of the following: landscape/yard trimmings, grass clippings, food scraps, and agricultural crop residues.
- Organic matter: 35-75% dry weight basis.
- Carbon and Nitrogen Ratio: 15:1 < C:N < 25:1
- Maturity/Stability: shall have dark brown color and a soil-like odor. Compost exhibiting a sour or putrid smell, containing recognizable grass or leaves, or is hot (120 F) upon delivery or rewetting is not acceptable.
- Toxicity: any one of the following measures is sufficient to indicate non-toxicity:
  - NH4:NH3 < 3
  - Ammonium < 500 ppm, dry weight basis
  - Seed Germination > 80% of control
  - Plant trials > 80% of control
  - Solvita® > 5 index value
- Nutrient content:
  - Total Nitrogen content 0.9% or above preferred
  - Total Boron should be <80 ppm, soluble boron < 2.5 ppm
- Salinity: < 6.0 mmhos/cm
- pH between 6.5 and 8 (may vary with plant palette)
- Compost for bioretention should be analyzed by an accredited lab using #200, ¼ inch, ½ inch, and 1 inch sieves (ASTM D 422) and meet the gradation described in Table H-2:

Table H-2. Compost Texture Specifications

	Percent Passing by Weight	
Sieve Size ASTM D422	**Minimum**	**Maximum**
1 inch	99	100
½ inch	90	100
¼ inch	40	90
#200	2	10

Tests should be sufficiently recent to represent the actual material that is anticipated to be delivered to the site. If processes or sources used by the supplier have changed significantly since the most recent testing, new tests should be requested.

Note: the gradation of compost used in bioretention/biofiltratation media is believed to play an important role in the saturated hydraulic conductivity of the media. To achieve a higher saturated hydraulic conductivity, it may be necessary to utilize compost at the coarser end of this range ("minimum" column). The percent passing the #200 sieve (fines) is believed to be the most important factor in hydraulic conductivity.

In addition, a coarser compost mix provides more heterogeneity of the bioretention media, which is believed to be advantageous for more rapid development of soil structure needed to support health biological processes. This may be an advantage for plant establishment with lower nutrient and water input.

e. Bioretention/Biofiltration soils not meeting the above criteria shall be evaluated on a case by case basis. Alternative bioretention soil shall meet the following specification:

"Soils for bioretention facilities shall be sufficiently permeable to infiltrate runoff at a minimum rate of 5 inches per hour during the life of the facility, and provide sufficient retention of moisture and nutrients to support healthy vegetation." The following steps shall be followed by the Permittees to verify that alternative soil mixes meet the specification:

- Submittals – The applicant must submit to the Permittee for approval:
  - A sample of mixed bioretention/biofiltration soil.
  - Certification from the soil supplier or an accredited laboratory that the bioretention/biofiltration soil meets the requirements of this specification.
  - Certification from an accredited geotechnical testing laboratory that the bioretention/biofiltration soil has an infiltration rate of between 5 and 12 inches per hour.
  - Organic content test results of mixed bioretention/biofiltration soil. Organic content test shall be performed in accordance with by Testing Methods for the Examination of Compost and Composting (TMECC) 05.07A, "Loss-On-Ignition Organic Matter Method".
  - Organic Grain size analysis results of mixed bioretention/biofiltration soil performed in accordance with ASTM D 422, Standard Test Method for Particle Size Analysis of Soils.
  - A description of the equipment and methods used to mix the sand and compost to produce the bioretention/biofiltration soil.
- The name of the testing laboratory(s) and the following information:
  - Contact person(s)
  - Address(s)
  - Phone contact(s)
  - email address(s)
  - Qualifications of laboratory(s), and personnel including date of current
  - Certification by STA, ASTM, or approved equal.
- Bioretention/biofiltration soils shall be analyzed by an accredited lab using #200, and 1/2" inch sieves (ASTM D 422 or as approved by municipality), and meet the gradation described in Table H-3).

Table H-3. Alternative Bioretention/Biofiltration Soil Texture Specifications

	Percent Passing by Weight	
Sieve Size ASTM D422	**Minimum**	**Maximum**
½ inch	97	100
200	2	5

- Bioretention/biofiltration soils shall be analyzed by an accredited geotechnical lab for the following tests:
  - Moisture – density relationships (compaction tests) shall be conducted on bioretention soil. Bioretention/biofiltration soil for the permeability test shall be compacted to 85 to 90 percent of the maximum dry density (ASTM D1557).
  - Constant head permeability testing in accordance with ASTM D2434 shall be conducted on a minimum of two samples with a 6-inch mold and vacuum saturation.

7. Mulch for Bioretention/Biofiltration Facilities

Mulch is recommended for the purpose of retaining moisture, preventing erosion and minimizing weed growth. Projects subject to the State's Model Water Efficiency Landscaping Ordinance (or comparable local ordinance) will be required to provide at least two inches of mulch. Aged mulch, also called compost mulch, reduces the ability of weeds to establish, keeps soil moist, and replenishes soil nutrients. Aged mulch can be obtained through soil suppliers or directly from commercial recycling yards. It is recommended to apply 1" to 2" of composted mulch, once a year, preferably in June following weeding

8. Plants

a. Plant materials should be tolerant of summer drought, ponding fluctuations, and saturated soil conditions for 48 to 96 hours.

b. It is recommended that a minimum of three types of tree, shrubs, and/or herbaceous groundcover species be incorporated to protect against facility failure due to disease and insect infestations of a single species.

c. Native plant species and/or hardy cultivars that are not invasive and do not require chemical inputs should be used to the maximum extent practicable.

References

California Regional Water Quality Control Board, San Francisco Bay Region. 2011. Municipal Regional Stormwater Permit (Order No. R2-2011-0083, Attachment L). Adopted November 28, 2011.

Dan Cloak, Dan Cloak Environmental Consulting to Tom Dalziel, Contra Costa County, February 22, 2011.<http://www.cccleanwater.org/c3-guidebook.html>. Accessed on January 31, 2012.

Geosyntec Consultants and Larry Walker Associates. 2011. *Ventura County Technical Guidance Manual for Stormwater Quality Control Measures, Manual Update 2011. Appendix D*. Prepared for the Ventura Countywide Stormwater Quality Management Program. July 13, 2011.

ATTACHMENT I. DEVELOPER TECHNICAL INFORMATION AND GUIDELINES

1. Each Permittee shall make available to the Development Community reference information and recommended guidelines. Such information may include the following:

a. Hydromodification Control criteria described in this Order, including numerical criteria

b. Links to the State Water Board's Water Balance Calculator

c. Expected BMP pollutant removal performance including effluent quality (ASCE/ U.S. EPA International BMP Database, CASQA New Development BMP Handbook, technical reports, local data on BMP performance, and the scientific literature appropriate for southern California geography and climate)

d. Selection of appropriate BMPs for stormwater pollutants of concern

e. Data on observed local effectiveness and performance of implemented BMPs

f. BMP maintenance and cost considerations

g. Guiding principles to facilitate integrated water resources planning and management in the selection of BMPs, including water conservation, groundwater recharge, public recreation, multipurpose parks, open space preservation, and existing retrofits

h. LID principles and specifications, including the objectives and specifications for integration of LID strategies in the areas of:

i. Site Assessment

ii. Site Planning and Design

iii. Vegetative Protection, Revegetation, and Maintenance

iv. Techniques to Minimize Land Disturbance

v. Techniques to Implement LID Measures at Various Scales

vi. Integrated Water Resources Management Practices

vii. LID Design and Flow Modeling Guidance

viii. Hydrologic Analysis

ix. LID Credits for trees or other features that intercept storm water runoff.

i. Recommended Guidelines to include:

i. Locate structures on less pervious soils where possible so as to preserve areas with permeable soils (Hydrologic Soil Group Classes A and B, as defined by the National Cooperative Soil Survey), for use in stormwater infiltration and groundwater recharge. Minimize the need to grade the site by concentrating development in areas with minimal non-engineered slopes and existing infrastructure, and mitigate any construction disturbance.

ii. The total disturbed area shall be no greater than 110 percent of the final project footprint plus the area of the construction stormwater detention basins, if any, and as required to meet applicable Fire Department regulations for brush clearance.

iii. Construction vehicles shall be confined at all times to the area specifically permitted to be disturbed by construction as depicted in the approved construction documents. Physical barriers shall be used to designate and protect the boundary between disturbed and undisturbed areas.

iv. Materials staging shall be confined to the area permitted to be disturbed by construction or may be temporarily stored off-site at an approved location at the Contractor's option.

v. Construction vehicles shall not traverse areas within the drip lines of those trees and other landscaping to be preserved. Approved visible physical barriers, such as continuous fencing, shall be provided to completely surround all trees and other landscaping to be preserved. Barriers shall be placed not less than 5 feet outside the drip lines of trees.

vi. Preserve or restore continuous riparian buffers widths along all natural drainages to a minimum width of 100 feet from each bank top, for a total of 200 feet plus the width of the stream, unless the Watershed Plan demonstrates that a smaller riparian buffer width is protective of water quality, hydrology, and aquatic life beneficial uses within a specific drainage.

vii. Identify and avoid development of areas containing habitat with threatened or endangered plant and animal species[1].

j. Each Permittee shall facilitate implementation of LID by providing key industry, regulatory, and other stakeholders with information regarding LID objectives and specifications through a training program. The LID training program will include the following:

i. LID targeted sessions and materials for builders, design professionals, regulators, resource agencies, and stakeholders

ii. A combination of awareness on national efforts and local experience gained through LID pilot projects and demonstration projects

iii. Materials and data from LID pilot projects and demonstration projects including case studies

iv. Guidance on how to integrate LID requirements at various project scales

v. Guidance on the relationship among LID strategies, Source Control BMPs, Treatment Control BMPs, and Hydromodification Control requirements

[1] Federal Endangered Species Act, 16 U.S.C. §§ 1531–1544 (http://water.epa.gov/lawsregs/guidance/wetlands/eo11990.cfm); California Endangered Species Act, California Fish and Game Code, §§ 2050 to 2115.5.

ATTACHMENT J. DETERMINATION OF EROSION POTENTIAL

E_p is determined as follows - The *total effective work* done on the channel boundary is derived and used as a metric to predict the likelihood of channel adjustment given watershed and stream hydrologic and geomorphic variables. The index under urbanized conditions is compared to the index under pre-urban conditions expressed as a ratio (E_p). The effective work index (*W*) can be computed in a number of different ways including simplistic work equations, material specific sediment transport equations, or more complex functions based on site calibrated sediment rating curves. One such work equation, which represents the total work done on the channel boundary, includes the following:

$$W = \sum_{i=1}^{n} \left(\tau_i - \tau_c\right)^{1.5} \cdot V \cdot \Delta t_i \qquad (1)$$

Where: W = effective work, τ_c = critical shear stress that initiates bed mobility or erodes the weakest bank layer, τ_i = applied hydraulic shear stress, Δt = duration of flows (in hours), V= mid-channel flow velocity, and *n* = length of flow record. The effective work index for presumed stable stream channels under pre-urban conditions is compared to stable and unstable channels under current urbanized conditions. The comparison, expressed as a ratio, is defined as the Erosion Potential (Ep)[1] (McRae (1992, 1996)).

$$Ep = \frac{W_{post}}{W_{pre}} \qquad (2)$$

where:
$\boldsymbol{W_{post}}$ = work index estimated for the post-urban condition
$\boldsymbol{W_{pre}}$ = work index estimated for the pre-urban condition

Alternatively, a sediment transport function such as the Brownlie equation or the Meyer-Peter and Muller equation *(US Department of Agriculture, Natural Resources Conservation Service, 2007. Part 654 Stream Restoration Design, National Engineering Handbook, August 2007)* can be used to demonstrate appropriate Hydromodification control.

[1] MacRae, C.R. 1992. The Role of Moderate Flow Events and Bank Structure in the Determination of Channel Response to Urbanization. Resolving conflicts and uncertainty in water management: Proceedings of the 45th Annual Conference of the Canadian Water Resources Association. Shrubsole, D, ed. 1992, pg. 12.1-12.21; MacRae, C.R. 1996. Experience from Morphological Research on Canadian Streams: Is Control of the Two-Year Frequency Runoff Event the Best Basis for Stream Channel Protection. Effects of Watershed Development and Management on Aquatic Ecosystems, ASCE Engineering Foundation Conference, Snowbird, Utah, pg. 144-162.

ATTACHMENT K. PERMITTEES AND TMDLS MATRIX

Note: For all tables in this Attachment, Permittees listed in *italics* are Multi-Jurisdictional Permittees.

Table K-1: Santa Clara River Watershed Management Area TMDLs

SANTA CLARA RIVER WATERSHED MANAGEMENT AREA PERMITTEES	ACTIVE TMDLS			
	Santa Clara River Nitrogen Compounds TMDL	Upper Santa Clara River Chloride TMDL	Lake Elizabeth, Munz Lake, and Lake Hughes Trash TMDL	Santa Clara River Estuary and Reaches 3, 5, 6, and 7 Indicator Bacteria TMDL
Los Angeles (County of)	X	X	X	X
Los Angeles County Flood Control	X	X		X
Santa Clarita	X	X		X

Table K-2: Santa Monica Bay Watershed Management Area TMDLs

SANTA MONICA BAY WATERSHED MANAGEMENT AREA PERMITTEES	ACTIVE TMDLS					
				Malibu Creek Subwatershed		
	Santa Monica Bay Beaches Bacteria TMDL (Wet and Dry Weather)	Santa Monica Bay Nearshore and Offshore Debris TMDL	Santa Monica Bay TMDL for DDTs and PCBs	Malibu Creek and Lagoon Bacteria TMDL	Malibu Creek Watershed Trash TMDL	Malibu Creek Nutrient TMDL
Agoura Hills	X	X	X	X	X	X
Beverly Hills	X	X	X			
Calabasas	X	X	X	X	X	X
Culver City	X	X	X			
El Segundo	X	X	X			
Hermosa Beach	X	X	X			
Hidden Hills	X	X	X	X	X	X
Inglewood	X	X	X			
Los Angeles (City of)	X	X	X			

SANTA MONICA BAY WATERSHED MANAGEMENT AREA PERMITTEES	ACTIVE TMDLS					
				Malibu Creek Subwatershed		
	Santa Monica Bay Beaches Bacteria TMDL (Wet and Dry Weather)	Santa Monica Bay Nearshore and Offshore Debris TMDL	Santa Monica Bay TMDL for DDTs and PCBs	Malibu Creek and Lagoon Bacteria TMDL	Malibu Creek Watershed Trash TMDL	Malibu Creek Nutrient TMDL
Los Angeles (County of)	X	X	X	X	X	X
Los Angeles County Flood Control	X	X	X	X	X	X
Malibu	X	X	X	X	X	X
Manhattan Beach	X	X	X			
Palos Verdes Estates	X	X	X			
Rancho Palos Verdes	X	X	X			
Redondo Beach	X	X	X			
Rolling Hills	X	X	X			
Rolling Hills Estates	X	X	X			
Santa Monica	X	X	X			
Torrance	X	X	X			
West Hollywood	X	X	X			
Westlake Village	X	X	X	X	X	X

Table K-3: Santa Monica Bay Watershed Management Area TMDLs

SANTA MONICA BAY WATERSHED MANAGEMENT AREA PERMITTEES	ACTIVE TMDLS						
	Ballona Creek Subwatershed					Marina del Rey Subwatershed	
	Ballona Creek Trash TMDL	Ballona Creek Estuary Toxic Pollutants TMDL	Ballona Creek, Ballona estuary and Sepulveda Channel Bacteria TMDL	Ballona Creek Metals TMDL	Ballona Creek Wetlands TMDL for Sediment and Invasive Exotic Vegetation	Marina del Rey Harbor Mothers' Beach and Back Basins Bacteria TMDL	Marina del Rey Harbor Toxic Pollutants TMDL
Agoura Hills							
Beverly Hills	X	X	X	X	X		
Calabasas							
Culver City	X	X	X	X	X	X	X
El Segundo							
Hermosa Beach							
Hidden Hills							
Inglewood	X	X	X	X	X		
Los Angeles (City of)	X	X	X	X	X	X	X
Los Angeles (County of)	X	X	X	X	X	X	X
Los Angeles County Flood Control		X	X	X	X	X	X
Malibu							
Manhattan Beach							
Palos Verdes Estates							
Rancho Palos Verdes							
Redondo Beach							
Rolling Hills							
Rolling Hills Estates							
Santa Monica	X	X	X	X	X		

SANTA MONICA BAY WATERSHED MANAGEMENT AREA PERMITTEES	ACTIVE TMDLS						
	Ballona Creek Subwatershed					Marina del Rey Subwatershed	
	Ballona Creek Trash TMDL	Ballona Creek Estuary Toxic Pollutants TMDL	Ballona Creek, Ballona estuary and Sepulveda Channel Bacteria TMDL	Ballona Creek Metals TMDL	Ballona Creek Wetlands TMDL for Sediment and Invasive Exotic Vegetation	Marina del Rey Harbor Mothers' Beach and Back Basins Bacteria TMDL	Marina del Rey Harbor Toxic Pollutants TMDL
Torrance							
West Hollywood	X	X	X	X	X		
Westlake Village							

Table K-4: Dominguez Channel Watershed Management Area TMDLs

DOMINGUEZ CHANNEL WATERSHED MANAGEMENT AREA PERMITTEES	ACTIVE TMDLS				
	Los Angeles Harbor Bacteria TMDL	Machado Lake Trash TMDL	Machado Lake Nutrient TMDL	Machado Lake Pesticides and PCBs TMDL	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters Toxic Pollutants TMDL[1]
Carson		X	X	X	X
Compton					X
El Segundo					X
Gardena					X
Hawthorne					X
Inglewood					X
Lawndale					X
Lomita		X	X	X	
Los Angeles (City of)	X	X	X	X	X
Los Angeles (County of)	X	X	X	X	X
Los Angeles County Flood Control		X	X	X	X
Manhattan Beach					X
Palos Verdes Estates		X	X	X	

DOMINGUEZ CHANNEL WATERSHED MANAGEMENT AREA PERMITTEES	ACTIVE TMDLS				
	Los Angeles Harbor Bacteria TMDL	Machado Lake Trash TMDL	Machado Lake Nutrient TMDL	Machado Lake Pesticides and PCBs TMDL	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters Toxic Pollutants TMDL[1]
Rancho Palos Verdes		X	X	X	X
Redondo Beach		X	X	X	X
Rolling Hills		X	X	X	X
Rolling Hills Estates		X	X	X	X
Torrance		X	X	X	X

[1] The requirements of this Order to implement the obligations of this TMDL do not apply to a Permittee to the extent that it is determined that the Permittee has been released from that obligation pursuant to the Amended Consent Decree entered in *United States v. Montrose Chemical Corp.*, Case No. 90-3122 AAH (JRx).

Table K-5: Los Angeles River Watershed Management Area TMDLs

LOS ANGELES RIVER WATERSHED MANAGEMENT AREA PERMITTEES	ACTIVE TMDLS							
	Los Angeles River Watershed Trash TMDL	Los Angeles River Nitrogen Compounds and Related Effects TMDL	Los Angeles River and Tributaries Metals TMDL	Los Angeles River Watershed Bacteria TMDL	Legg Lake Trash TMDL	Long Beach City Beaches and Los Angeles River Estuary Bacteria TMDL	Los Angeles Area Lake TMDLs for Lake Calabasas, Echo Park Lake, Legg Lake and Peck Road Park Lake	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters Toxic Pollutants TMDL[1]
Alhambra	X	X	X	X				
Arcadia	X	X	X	X			X	
Bell	X	X	X	X				
Bell Gardens	X	X	X	X				
Bradbury	X	X	X	X			X	
Burbank	X	X	X	X				
Calabasas	X	X	X	X			X	
Carson	X	X	X	X				X
Commerce	X	X	X	X				
Compton	X	X	X	X				X

LOS ANGELES RIVER WATERSHED MANAGEMENT AREA PERMITTEES	ACTIVE TMDLS							
	Los Angeles River Watershed Trash TMDL	Los Angeles River Nitrogen Compounds and Related Effects TMDL	Los Angeles River and Tributaries Metals TMDL	Los Angeles River Watershed Bacteria TMDL	Legg Lake Trash TMDL	Long Beach City Beaches and Los Angeles River Estuary Bacteria TMDL	Los Angeles Area Lake TMDLs for Lake Calabasas, Echo Park Lake, Legg Lake and Peck Road Park Lake	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters Toxic Pollutants TMDL[1]
Cudahy	X	X	X	X				
Downey	X	X	X	X				
Duarte	X	X	X	X			X	
El Monte	X	X	X	X	X		X	
Glendale	X	X	X	X				
Hidden Hills	X	X	X	X				
Huntington Park	X	X	X	X				
Irwindale	X	X	X	X			X	
La Canada Flintridge	X	X	X	X				
Lakewood	X	X						X
Los Angeles (City of)	X	X	X	X			X	X
Los Angeles (County of)	X	X	X	X	X		X	X
Los Angeles County Flood Control		X	X	X	X	X	X	X
Lynwood	X	X	X	X				
Maywood	X	X	X	X				
Monrovia	X	X	X	X			X	
Montebello	X	X	X	X				
Monterey Park	X	X	X	X				
Paramount	X	X	X	X				X
Pasadena	X	X	X	X				
Pico Rivera	X	X	X	X				

LOS ANGELES RIVER WATERSHED MANAGEMENT AREA PERMITTEES	ACTIVE TMDLS							
	Los Angeles River Watershed Trash TMDL	Los Angeles River Nitrogen Compounds and Related Effects TMDL	Los Angeles River and Tributaries Metals TMDL	Los Angeles River Watershed Bacteria TMDL	Legg Lake Trash TMDL	Long Beach City Beaches and Los Angeles River Estuary Bacteria TMDL	Los Angeles Area Lake TMDLs for Lake Calabasas, Echo Park Lake, Legg Lake and Peck Road Park Lake	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters Toxic Pollutants TMDL[1]
Rosemead	X	X	X	X				
San Fernando	X	X	X	X				
San Gabriel	X	X	X	X				
San Marino	X	X	X	X				
Santa Clarita	X	X	X	X				
Sierra Madre	X	X	X	X			X	
Signal Hill	X	X	X	X		X		X
South El Monte	X	X	X	X	X		X	
South Gate	X	X	X	X				
South Pasadena	X	X	X	X				
Temple City	X	X	X	X				
Vernon	X	X	X	X				

[1] The requirements of this Order to implement the obligations of this TMDL do not apply to a Permittee to the extent that it is determined that the Permittee has been released from that obligation pursuant to the Amended Consent Decree entered in *United States v. Montrose Chemical Corp.*, Case No. 90-3122 AAH (JRx).

Table K-6: San Gabriel River Watershed Management Area TMDLs

SAN GABRIEL RIVER WATERSHED MANAGEMENT AREA PERMITTEES	ACTIVE TMDLS		
	San Gabriel River and Impaired Tributaries Metals and Selenium TMDL	Los Angeles Area Lakes TMDLs for Puddingstone Reservoir, and Santa Fe Dam Park Lake	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters Toxic Pollutants TMDL[1]
Arcadia	X		
Artesia	X		
Azusa	X	X	
Baldwin Park	X		
Bellflower	X		X
Bradbury	X		
Cerritos	X		
Claremont	X	X	
Covina	X		
Diamond Bar	X		
Downey	X		
Duarte	X		
El Monte	X		
Glendora	X		
Hawaiian Gardens	X		
Industry	X		
Irwindale	X	X	
La Habra Heights	X		
La Mirada	X		
La Puente	X		
La Verne	X	X	
Lakewood	X		X
Los Angeles (County of)	X	X	X
Los Angeles County Flood Control	X	X	X

SAN GABRIEL RIVER WATERSHED MANAGEMENT AREA PERMITTEES	ACTIVE TMDLS		
	San Gabriel River and Impaired Tributaries Metals and Selenium TMDL	Los Angeles Area Lakes TMDLs for Puddingstone Reservoir, and Santa Fe Dam Park Lake	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters Toxic Pollutants TMDL[1]
Monrovia	X		
Norwalk	X		
Pico Rivera	X		
Pomona	X	X	
San Dimas	X	X	
Santa Fe Springs	X		
South El Monte	X		
Walnut	X		
West Covina	X		
Whittier	X		

[1] The requirements of this Order to implement the obligations of this TMDL do not apply to a Permittee to the extent that it is determined that the Permittee has been released from that obligation pursuant to the Amended Consent Decree entered in *United States v. Montrose Chemical Corp.*, Case No. 90-3122 AAH (JRx).

Table K-7: Los Cerritos Channel and Alamitos Bay Watershed Management Area TMDLs

LOS CERRITOS CHANNEL AND ALAMITOS BAY WATERSHED MANAGEMENT AREA PERMITTEES	ACTIVE TMDLS		
	Los Cerritos Channel Metals TMDL	Colorado Lagoon OC Pesticides, PCBs, Sediment Toxicity, PAHs, and Metals TMDL	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters Toxic Pollutants TMDL[1]
Bellflower	X		X
Cerritos	X		
Downey	X		
Lakewood	X		X
Los Angeles (County of)	X		X
Los Angeles County Flood Control	X	X	X
Paramount	X		X
Signal Hill	X		X

[1] The requirements of this Order to implement the obligations of this TMDL do not apply to a Permittee to the extent that it is determined that the Permittee has been released from that obligation pursuant to the Amended Consent Decree entered in *United States v. Montrose Chemical Corp.*, Case No. 90-3122 AAH (JRx).

Table K-8: Middle Santa Ana River Watershed Management Area TMDLs

MIDDLE SANTA ANA RIVER WATERSHED MANAGEMENT AREA PERMITTEES	ACTIVE TMDL
	Middle Santa Ana River Watershed Bacterial Indicator TMDL
Claremont	X
Pomona	X

Table K-9: Los Angeles River Watershed Management Area Metals TMDLs by Reach

LOS ANGELES RIVER WATERSHED MANAGEMENT AREA PERMITTEES	Los Angeles River and Tributaries Metals TMDL				
	Reach 1 and Compton Creek	Reach 2, Rio Hondo, Arroyo Seco, and all contributing subwatersheds	Reach 3, Verdugo Wash, and Burbank Western Channel	Reach 4, Reach 5, Tujunga Wash, and all contributing subwatersheds	Reach 6, Bell Creek, and all contributing subwatersheds
Alhambra		X			
Arcadia		X			
Bell		X			
Bell Gardens		X			
Bradbury		X			
Burbank			X	X	
Calabasas					X
Carson	X				
Commerce		X			
Compton	X	X			
Cudahy		X			
Downey		X			
Duarte		X			
El Monte		X			
Glendale		X	X	X	
Hidden Hills					X
Huntington Park	X	X			
Irwindale		X			
La Canada Flintridge		X	X		
Lakewood					
Los Angeles (City of)	X	X	X	X	X
Los Angeles (County of)	X	X	X	X	X
Los Angeles County Flood Control	X	X	X	X	X
Lynwood	X	X			
Maywood		X			

LOS ANGELES RIVER WATERSHED MANAGEMENT AREA PERMITTEES	Los Angeles River and Tributaries Metals TMDL				
	Reach 1 and Compton Creek	Reach 2, Rio Hondo, Arroyo Seco, and all contributing subwatersheds	Reach 3, Verdugo Wash, and Burbank Western Channel	Reach 4, Reach 5, Tujunga Wash, and all contributing subwatersheds	Reach 6, Bell Creek, and all contributing subwatersheds
Monrovia		X			
Montebello		X			
Monterey Park		X			
Paramount		X			
Pasadena		X	X		
Pico Rivera		X			
Rosemead		X			
San Fernando				X	
San Gabriel		X			
San Marino		X			
Santa Clarita					
Sierra Madre		X			
Signal Hill	X				
South El Monte		X			
South Gate	X	X			
South Pasadena		X			
Temple City		X			
Vernon		X			

Table K-10: Los Angeles River Watershed Management Area Bacteria TMDL by Reach

LOS ANGELES RIVER WATERSHED MANAGEMENT AREA PERMITTEES	Los Angeles River Watershed Bacteria TMDL															
	Los Angeles River Segment					Los Angeles River Tributary										
	A	B	C	D	E	Aliso Canyon Wash	Arroyo Seco	Bell Creek	Bull Creek	Burbank Western Channel	Compton Creek	Dry Canyon Creek	McCoy Canyon Creek	Rio Hondo	Tujunga Wash	Verdugo Wash
Alhambra		X												X		
Arcadia														X		
Bell		X														
Bell Gardens		X												X		
Bradbury														X		
Burbank			X							X						
Calabasas												X	X			
Carson											X					
Commerce		X												X		
Compton	X	X									X					
Cudahy		X														
Downey		X												X		
Duarte														X		
El Monte														X		
Glendale		X	X				X			X					X	X
Hidden Hills								X					X			
Huntington Park		X									X					
Irwindale														X		
La Canada Flintridge			X				X									X
Lakewood	X															
Los Angeles (City of)		X	X	X	X	X	X	X	X	X	X	X	X		X	X
Los Angeles (County of)	X	X	X		X	X	X	X	X		X	X	X	X	X	X

LOS ANGELES RIVER WATERSHED MANAGEMENT AREA PERMITTEES	Los Angeles River Watershed Bacteria TMDL															
	Los Angeles River Segment					Los Angeles River Tributary										
	A	B	C	D	E	Aliso Canyon Wash	Arroyo Seco	Bell Creek	Bull Creek	Burbank Western Channel	Compton Creek	Dry Canyon Creek	McCoy Canyon Creek	Rio Hondo	Tujunga Wash	Verdugo Wash
Los Angeles County Flood Control	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Lynwood	X	X									X					
Maywood		X														
Monrovia														X		
Montebello		X												X		
Monterey Park		X												X		
Paramount	X	X														
Pasadena		X	X				X							X		X
Pico Rivera														X		
Rosemead														X		
San Fernando															X	
San Gabriel														X		
San Marino														X		
Santa Clarita									X							
Sierra Madre														X		
Signal Hill	X															
South El Monte														X		
South Gate		X									X			X		
South Pasadena		X					X							X		
Temple City														X		
Vernon		X														

Table K-11: Santa Monica Bay Watershed Management Area Bacteria TMDL by Reach

SANTA MONICA BAY WATERSHED MANAGEMENT AREA PERMITTEES	Santa Monica Bay Beaches Bacteria TMDL (Wet and Dry Weather)								
	Jurisdiction Group 1	Jurisdiction Group 2	Jurisdiction Group 3	Jurisdiction Group 4	Jurisdiction Group 5	Jurisdiction Group 6	Jurisdiction Group 7	Jurisdiction Group 8	Jurisdiction Group 9
Agoura Hills									X
Beverly Hills								X	
Calabasas	X								X
Culver City								X	
El Segundo		X			X				
Hermosa Beach					X	X			
Hidden Hills									X
Inglewood								X	
Los Angeles (City of)	X	X	X				X	X	
Los Angeles (County of)	X	X		X	X	X	X	X	X
Los Angeles County Flood Control	X	X	X	X	X	X	X	X	X
Malibu	X			X					X
Manhattan Beach					X	X			
Palos Verdes Estates							X		
Rancho Palos Verdes							X		
Redondo Beach						X			
Rolling Hills							X		
Rolling Hills Estates							X		
Santa Monica		X	X					X	
Torrance						X			
West Hollywood								X	

SANTA MONICA BAY WATERSHED MANAGEMENT AREA PERMITTEES	Santa Monica Bay Beaches Bacteria TMDL (Wet and Dry Weather)								
	Jurisdiction Group 1	Jurisdiction Group 2	Jurisdiction Group 3	Jurisdiction Group 4	Jurisdiction Group 5	Jurisdiction Group 6	Jurisdiction Group 7	Jurisdiction Group 8	Jurisdiction Group 9
Westlake Village									X

Table K-12: San Gabriel River Watershed Management Area Metals TMDLs by Reach

SAN GABRIEL RIVER WATERSHED MANAGEMENT AREA PERMITTEES	San Gabriel River and Impaired Tributaries Metals and Selenium TMDL							
	Walnut Creek	San Jose Creek	Coyote Creek	San Gabriel River Reach 1	San Gabriel River Reach 2	San Gabriel River Reach 3	San Gabriel River Reach 4	San Gabriel River Reach 5
Arcadia							X	
Artesia			X	X				
Azusa	X							X
Baldwin Park	X					X	X	
Bellflower				X				
Bradbury								
Cerritos			X	X				
Claremont	X	X						
Covina	X							
Diamond Bar		X	X					
Downey				X	X			
Duarte								X
El Monte						X	X	
Glendora	X							X
Hawaiian Gardens			X					
Industry	X	X			X	X		
Irwindale	X					X	X	X
La Habra Heights		X	X					

SAN GABRIEL RIVER WATERSHED MANAGEMENT AREA PERMITTEES	San Gabriel River and Impaired Tributaries Metals and Selenium TMDL							
	Walnut Creek	San Jose Creek	Coyote Creek	San Gabriel River Reach 1	San Gabriel River Reach 2	San Gabriel River Reach 3	San Gabriel River Reach 4	San Gabriel River Reach 5
La Mirada			X					
La Puente	X	X				X		
La Verne	X	X						
Lakewood			X	X				
Los Angeles (County of)	X	X	X		X	X		X
Los Angeles County Flood Control	X	X	X	X	X	X	X	X
Monrovia								X
Norwalk			X	X				
Pico Rivera					X	X		
Pomona	X	X						
San Dimas	X	X						
Santa Fe Springs			X	X	X			
South El Monte						X		
Walnut	X	X						
West Covina	X	X						
Whittier		X	X		X	X		

Table K-13: Dominguez Channel Watershed Management Area Toxics TMDL by Reach

DOMINGUEZ CHANNEL WATERSHED MANAGEMENT AREA PERMITTEES	Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters Toxic Pollutants TMDL[1]					
	Dominguez Channel	Dominguez Channel Estuary	Greater Los Angeles and Long Beach Harbors	Los Angeles River Estuary	Consolidated Slip	Los Angeles River and San Gabriel River
Bellflower			X			
Carson	X	X				
Compton	X	X				
El Segundo	X					
Gardena	X	X				
Hawthorne	X					
Inglewood	X					
Lakewood			X			
Lawndale	X					
Los Angeles (City of)	X	X	X	X	X	
Los Angeles (County of)	X	X	X	X	X	
Los Angeles County Flood Control District	X	X	X	X	X	
Manhattan Beach	X					
Paramount			X			
Rancho Palos Verdes			X			
Redondo Beach	X					
Rolling Hills			X			
Rolling Hills Estates			X			
Signal Hill			X	X		
Torrance	X	X				
Los Angeles River and San Gabriel River Metals TMDLs Responsible Parties[2]						see note 2 below

[1] The requirements of this Order to implement the obligations of this TMDL do not apply to a Permittee to the extent that it is determined that the Permittee has been released from that obligation pursuant to the Amended Consent Decree entered in *United States v. Montrose Chemical Corp.*, Case No. 90-3122 AAH (JRx).

[2] Permittees subject to the Los Angeles River Metals TMDL and the San Gabriel River Metals TMDL are required to submit a monitoring plan and a report of implementation.

ATTACHMENT L. TMDLs IN THE SANTA CLARA RIVER WATERSHED MANAGEMENT AREA (WMA)

A. Santa Clara River Nitrogen Compounds TMDL

1. Permittees subject to the provisions below are identified in Attachment K, Table K-1.

2. Permittees shall comply with the following water quality-based effluent limitations for discharges to the Santa Clara River Reach 5[1] as of the effective date of this Order:

Constituent	Effluent Limitations (mg/L)	
	1-hour Average	30-day Average
Total Ammonia as Nitrogen	5.2	1.75
Nitrate as Nitrogen plus Nitrite as Nitrogen	--	6.8

B. Upper Santa Clara River Chloride TMDL

1. Permittees subject to the provisions below are identified in Attachment K, Table K-1.

2. Permittees shall comply with the following water quality-based effluent limitation for discharges to the Santa Clara River Reaches 5 and 6 as of the effective date of this Order:

Constituent	Effluent Limitation Instantaneous Maximum (mg/L)
Chloride	100

C. Lake Elizabeth Trash TMDL

1. Permittees subject to the provisions below are identified in Attachment K, Table K-1.

2. Permittees shall comply with the final water quality-based effluent limitation of zero trash discharged to Lake Elizabeth no later than March 6, 2016 and every year thereafter.

3. Permittees shall comply with interim and final water quality-based effluent limitations for trash discharged to Lake Elizabeth, per the schedule below:

Deadline	Effluent Limitation	
	Drainage Area covered by Full Capture Systems (%)	Annual Trash Discharge (gal/yr)
Baseline	0	529
March 6, 2012	20	423
March 6, 2013	40	317
March 6, 2014	60	212
March 6, 2015	80	106
March 6, 2016	100	0

4. Permittees shall comply with the interim and final water quality-based effluent limitations for trash in C.2 and C.3 above per the provisions in Part VI.E.5.

[1] The Basin Plan Chapter 7-9 Santa Clara River Nitrogen Compounds TMDL uses the USEPA Santa Clara River reach designations. The USEPA's Santa Clara River Reach 7 corresponds to Santa Clara River Reach 5 in the Los Angeles Region's Basin Plan Chapter 2.

D. Santa Clara River Indicator Bacteria TMDL

1. Permittees subject to the provisions below are identified in Attachment K, Table K-1.

2. Permittees shall comply with the following final water quality-based effluent limitations for discharges to the Santa Clara River Reaches 5, 6 and 7 during dry weather no later than March 21, 2023 and during wet weather[2] no later than March 21, 2029:

Constituent	Effluent Limitation (MPN or cfu)	
	Daily Maximum	Geometric Mean
E. coli	235/100 mL	126/100 mL

3. Receiving Water Limitations

a. Permittees shall comply with the following interim bacteria receiving water limitations[3] for the Santa Clara River Reaches 5, 6, and 7:

Time Period	Annual Allowable Exceedance Days of the Single Sample Objective (days)		Deadline
	Daily Sampling	Weekly Sampling	
Dry Weather	17	3	March 21, 2016
Wet Weather	61	9	March 21, 2016

b. Permittees shall comply with the following final bacteria receiving water limitations[4] for the Santa Clara River Reaches 5, 6, and 7:

Time Period	Annual Allowable Exceedance Days of the Single Sample Objective (days)		Deadline
	Daily Sampling	Weekly Sampling	
Dry Weather	5	1	March 21, 2023
Wet Weather	16	3	March 21, 2029

[2] Wet weather is defined as days with 0.1 inch of rain or more and the three days following the rain event.
[3] The final receiving water limitations are group-based and shared among all MS4 Permittees located within the sub-drainage area to each reach.
[4] Ibid.

c. Permittees shall comply with the following geometric mean receiving water limitation for the Santa Clara River Reaches 5, 6, and 7 during dry weather no later than March 21, 2023 and during wet weather no later than March 21, 2029:

Constituent	**Geometric Mean (MPN or cfu)**
E. coli	126/100 mL

d. Permittees may propose wet-weather load-based compliance at MS4 outfalls. The plan shall include an estimate of existing load and the allowable load from MS4 outfalls to attain the allowable number of exceedance days instream. The plan shall include a technically defensible quantitative linkage to the allowable number of exceedance days. The plan shall include quantitative estimates of the water quality benefits provided by the proposed implementation approach.

ATTACHMENT M. TMDLs IN THE SANTA MONICA BAY WATERSHED MANAGEMENT AREA

A. Santa Monica Bay Beaches Bacteria TMDL

1. Permittees subject to the provisions below are identified in Attachment K, Table K-2.

2. Permittees shall comply with the following final water quality-based effluent limitations for discharges to Santa Monica Bay during dry weather as of the effective date of this Order and during wet weather no later than July 15, 2021:

Constituent	Effluent Limitations (MPN or cfu)	
	Daily Maximum	Geometric Mean
Total coliform*	10,000/100 mL	1,000/100 mL
Fecal coliform	400/100 mL	200/100 mL
Enterococcus	104/100 mL	35/100 mL

* Total coliform density shall not exceed a daily maximum of 1,000/100 mL, if the ratio of fecal-to-total coliform exceeds 0.1.

3. Section A.2 above shall not be applicable upon the effective date of the revised Santa Monica Bay Beaches Bacteria TMDL (Attachment A of Resolution No. R12-007). Upon the effective date of the revised Santa Monica Bay Beaches Bacteria TMDL, Permittees shall comply with the following daily maximum final water quality-based effluent limitations for discharges to Santa Monica Bay during dry weather as of the effective date of the revised Santa Monica Bay Beaches Bacteria TMDL and during wet weather no later than July 15, 2021. Permittees shall comply with the following geometric mean final water quality-based effluent limitations for each individual monitoring location, calculated as defined in the revised Santa Monica Bay Beaches Bacteria TMDL, no later than July 15, 2021.

Constituent	Effluent Limitations (MPN or cfu)	
	Daily Maximum	Geometric Mean
Total coliform*	10,000/100 mL	1,000/100 mL
Fecal coliform	400/100 mL	200/100 mL
Enterococcus	104/100 mL	35/100 mL

* Total coliform density shall not exceed a daily maximum of 1,000/100 mL, if the ratio of fecal-to-total coliform exceeds 0.1.

4. Receiving Water Limitations

a. Permittees in each defined jurisdictional group shall comply with the interim single sample bacteria receiving water limitations for shoreline monitoring stations within their jurisdictional area during wet weather, per the schedule below:

Deadline	**Cumulative percentage reduction from the total exceedance day reductions required for each jurisdictional group as identified in Table M-1**
July 15, 2013	25%
July 15, 2018	50%

b. Section A.4.a above shall not be applicable upon the effective date of the revised Santa Monica Bay Beaches Bacteria TMDL (Attachment A of Resolution No. R12-007). Upon the effective date of the revised Santa Monica Bay Beaches Bacteria TMDL, Permittees in each defined jurisdictional group shall comply with the interim single sample bacteria receiving water limitations for shoreline monitoring stations within their jurisdictional area during wet weather, per the schedule below:

Deadline	**Cumulative percentage reduction from the total wet weather exceedance day reductions required for each jurisdictional group as identified in Table M-2**
July 15, 2013	25%
July 15, 2018	50%

Table M-1: Interim Single Sample Bacteria Receiving Water Limitations by Jurisdictional Group

Jurisdiction Group	Primary Jurisdiction	Additional Responsible Jurisdictions & Agencies	Subwatershed(s)	Monitoring Site(s)	Interim Single Sample Bacteria Receiving Water Limitations as Maximum Allowable Exceedance Days during Wet Weather		
					10% Reduction Milestone	25% Reduction Milestone	50% Reduction Milestone
1	County of Los Angeles	Malibu City of Los Angeles (Topanga only) Calabasas (Topanga only)	Arroyo Sequit	SMB 1-1	221	212	197
			Carbon Canyon	SMB 1-13			
			Corral Canyon	SMB 1-11, SMB 1-12			
			Encinal Canyon	SMB 1-3			
			Escondido Canyon	SMB 1-8			
			Las Flores Canyon	SMB 1-14			
			Latigo Canyon	SMB 1-9			
			Los Alisos Canyon	SMB 1-2			
			Pena Canyon	SMB 1-16			
			Piedra Gorda Canyon	SMB 1-15			
			Ramirez Canyon	SMB 1-6, SMB 1-7			
			Solstice Canyon	SMB 1-10			
			Topanga Canyon	SMB 1-18			
			Trancas Canyon	SMB 1-4			
			Tuna Canyon	SMB 1-17			
			Zuma Canyon	SMB 1-5			

Jurisdiction Group	Primary Jurisdiction	Additional Responsible Jurisdictions & Agencies	Subwatershed(s)	Monitoring Site(s)	Interim Single Sample Bacteria Receiving Water Limitations as Maximum Allowable Exceedance Days during Wet Weather		
					10% Reduction Milestone	25% Reduction Milestone	50% Reduction Milestone
2	City of Los Angeles	County of Los Angeles El Segundo (Dockweiler only) Santa Monica	Castlerock	SMB 2-1	342	324	294
			Dockweiler	SMB 2-10, SMB 2-11, SMB 2-12, SMB 2-13, SMB 2-14, SMB 2-15			
			Venice Beach	SMB 2-8, SMB 2-9			
			Pulga Canyon	SMB 2-4, SMB 2-5			
			Santa Monica Canyon	SMB 2-7			
			Santa Ynez Canyon	SMB 2-2, SMB 2-3, SMB 2-6			
3	Santa Monica	City of Los Angeles County of Los Angeles	Santa Monica	SMB 3-1, SMB 3-2, SMB 3-3, SMB 3-4, SMB 3-5, SMB 3-6 SMB 3-7, SMB 3-8[#] SMB 3-9	257	237	203
4	Malibu	County of Los Angeles	Nicholas Canyon	SMB 4-1[#]	14	14	14
5	Manhattan Beach	El Segundo Hermosa Beach Redondo Beach County of Los Angeles	Hermosa	SMB 5-1[#], SMB 5-2, SMB 5-3[#], SMB 5-4[#], SMB 5-5[#]	29	29	29

Jurisdiction Group	Primary Jurisdiction	Additional Responsible Jurisdictions & Agencies	Subwatershed(s)	Monitoring Site(s)	Interim Single Sample Bacteria Receiving Water Limitations as Maximum Allowable Exceedance Days during Wet Weather		
					10% Reduction Milestone	25% Reduction Milestone	50% Reduction Milestone
6	Redondo Beach	Hermosa Beach Manhattan Beach Torrance County of Los Angeles	Redondo	SMB 6-1, SMB 6-2#, SMB 6-3, SMB 6-4, SMB 6-5#, SMB 6-6#	58	57	56
7	Rancho Palos Verdes	City of Los Angeles Palos Verdes Estates Rolling Hills Rolling Hills Estates County of Los Angeles	Palos Verdes Peninsula	SMB 7-1#, SMB 7-2#, SMB 7-3#, SMB 7-4#, SMB 7-5#, SMB 7-6#, SMB 7-7, SMB 7-8#, SMB 7-9#	36	36	36

For those beach monitoring locations subject to the antidegradation implementation provision in the TMDL, there shall be no increase in exceedance days during the implementation period above that estimated for the beach monitoring location in the critical year as identified in Table M-3.

* The California Department of Transportation (Caltrans) is a responsible agency in each Jurisdiction Group, except for Jurisdiction 7, and is jointly responsible for complying with the allowable number of exceedance days. Caltrans is separately regulated under the Statewide Storm Water Permit for State of California Department of Transportation (NPDES No. CAS000003).

Table M-2: Interim Wet Weather Single Sample Bacteria Receiving Water Limitations by Jurisdictional Group

Jurisdiction Group	Primary Jurisdiction	Additional Responsible Jurisdictions & Agencies	Subwatershed(s)	Monitoring Site(s)	Interim Single Sample Bacteria Receiving Water Limitations as Maximum Exceedance Days Beyond those Allowed during Wet Weather		
					10% Reduction Milestone	25% Reduction Milestone	50% Reduction Milestone
1	County of Los Angeles	Malibu City of Los Angeles (Topanga only) Calabasas (Topanga only)	Arroyo Sequit	SMB 1-1	393	327	218
			Carbon Canyon	SMB 1-13			
			Corral Canyon	SMB 1-11, SMB 1-12, SMB O-2#			
			Encinal Canyon	SMB 1-3#			
			Escondido Canyon	SMB 1-8			
			Las Flores Canyon	SMB 1-14			
			Latigo Canyon	SMB 1-9			
			Los Alisos Canyon	SMB 1-2#			
			Pena Canyon	SMB 1-16#			
			Piedra Gorda Canyon	SMB 1-15			
			Ramirez Canyon	SMB 1-6, SMB 1-7, SMB O-1#			
			Solstice Canyon	SMB 1-10			
			Topanga Canyon	SMB 1-18			
			Trancas Canyon	SMB 1-4			
			Tuna Canyon	SMB 1-17#			
			Zuma Canyon	SMB 1-5			

Jurisdiction Group	Primary Jurisdiction	Additional Responsible Jurisdictions & Agencies	Subwatershed(s)	Monitoring Site(s)	Interim Single Sample Bacteria Receiving Water Limitations as Maximum Exceedance Days Beyond those Allowed during Wet Weather		
					10% Reduction Milestone	25% Reduction Milestone	50% Reduction Milestone
2	City of Los Angeles	County of Los Angeles El Segundo (Dockweiler only) Santa Monica	Castlerock	SMB 2-1	382	318	212
			Dockweiler	SMB 2-10, SMB 2-11, SMB 2-12, SMB 2-13, SMB 2-14, SMB 2-15			
			Venice Beach	SMB 2-8, SMB 2-9			
			Pulga Canyon	SMB 2-4, SMB 2-5			
			Santa Monica Canyon	SMB 2-7			
			Santa Ynez Canyon	SMB 2-2, SMB 2-3, SMB 2-6			
3	Santa Monica	City of Los Angeles County of Los Angeles	Santa Monica	SMB 3-1, SMB 3-2, SMB 3-3, SMB 3-4, SMB 3-5, SMB 3-6, SMB 3-7, SMB 3-8, SMB 3-9	219	183	122
4	Malibu	County of Los Angeles	Nicholas Canyon	SMB 4-1[#]	15	12	8

Jurisdiction Group	Primary Jurisdiction	Additional Responsible Jurisdictions & Agencies	Subwatershed(s)	Monitoring Site(s)	Interim Single Sample Bacteria Receiving Water Limitations as Maximum Exceedance Days Beyond those Allowed during Wet Weather		
					10% Reduction Milestone	25% Reduction Milestone	50% Reduction Milestone
5	Manhattan Beach	El Segundo Hermosa Beach Redondo Beach County of Los Angeles	Hermosa	SMB 5-1#, SMB 5-2, SMB 5-3#, SMB 5-4#, SMB 5-5#	63	52	35
6	Redondo Beach	Hermosa Beach Manhattan Beach Torrance County of Los Angeles	Redondo	SMB 6-1, SMB 6-2#, SMB 6-3, SMB 6-4, SMB 6-5#, SMB 6-6#	62	51	34
7	Rancho Palos Verdes	City of Los Angeles Palos Verdes Estates Rolling Hills Rolling Hills Estates County of Los Angeles	Palos Verdes Peninsula	SMB 7-1#, SMB 7-2#, SMB 7-3#, SMB 7-4#, SMB 7-5#, SMB 7-6#, SMB 7-7, SMB 7-8#, SMB 7-9#	88	73	49

For those beach monitoring locations subject to the antidegradation implementation provision in the TMDL, there shall be no increase in exceedance days during the implementation period above that estimated for the beach monitoring location in the critical year as identified in Table M-4.

* The California Department of Transportation (Caltrans) is a responsible agency in each Jurisdiction Group, except for Jurisdiction 7, and is jointly responsible for complying with the allowable number of exceedance days. Caltrans is separately regulated under the Statewide Storm Water Permit for State of California Department of Transportation (NPDES No. CAS000003).

c. Permittees shall comply with the following grouped[1] final single sample bacteria receiving water limitations for all shoreline monitoring stations along Santa Monica Bay beaches, except for those monitoring stations subject to the antidegradation implementation provision as established in the TMDL and identified in subpart e. below, during dry weather as of the effective date of this Order and during wet weather no later than July 15, 2021:

Time Period	**Annual Allowable Exceedance Days of the Single Sample Objective (days)**	
	Daily Sampling	**Weekly Sampling**
Summer Dry-Weather (April 1 to October 31)	0	0
Winter Dry-Weather (November 1 to March 31)	3	1
Wet Weather[2] (Year-round)	17	3

d. Section A.4.c above shall not be applicable upon the effective date of the revised Santa Monica Bay Beaches Bacteria TMDL (Attachment A of Resolution No. R12-007). Upon the effective date of the revised Santa Monica Bay Beaches Bacteria TMDL, Permittees shall comply with the following grouped[3] final single sample bacteria receiving water limitations for all shoreline monitoring stations along Santa Monica Bay beaches, except for those monitoring stations subject to the antidegradation implementation provision as established in the TMDL and identified in subpart f. below, during dry weather as of the effective date of the revised Santa Monica Bay Beaches Bacteria TMDL and during wet weather no later than July 15, 2021:

Time Period	**Annual Allowable Exceedance Days of the Single Sample Objective (days)**	
	Daily Sampling	**Weekly Sampling**
Summer Dry-Weather (April 1 to October 31)	0	0
Winter Dry-Weather (November 1 to March 31)	9	2
Wet Weather[4] (Year-round)	17	3

[1] The final receiving water limitations are group-based and shared among all MS4 Permittees located within the sub-drainage area to each beach monitoring location.
[2] Wet weather is defined as days with 0.1 inch of rain or greater and the three days following the rain event.
[3] The final receiving water limitations are group-based and shared among all MS4 Permittees located within the sub-drainage area to each beach monitoring location.
[4] Wet weather is defined as days with 0.1 inch of rain or greater and the three days following the rain event.

e. Permittees shall comply with the following grouped5 final single sample bacteria receiving water limitations for shoreline monitoring stations along Santa Monica Bay beaches subject to the antidegradation implementation provision in the TMDL as of the effective date of this Order:

Table M-3: Allowable Number of Days that may Exceed any Single Sample Bacteria Receiving Water Limitations

		Annual Allowable Exceedance Days of the Single Sample Objective (days)					
Station ID	Beach Monitoring Location	Summer Dry Weather (April 1 – October 31)		Winter Dry Weather (November 1 – March 31)		Wet Weather (Year-round)	
		Daily Sampling	Weekly Sampling	Daily Sampling	Weekly Sampling	Daily Sampling	Weekly Sampling
SMB 1-4	Trancas Creek at Broad Beach	0	0	0	0	17	3
SMB 1-5	Zuma Creek at Zuma Beach	0	0	0	0	17	3
SMB 2-13	Imperial Highway storm drain	0	0	2	1	17	3
SMB 3-8	Windward Ave. storm drain at Venice Pavilion	0	0	2	1	13	2
SMB 4-1	San Nicholas Canyon Creek at Nicholas Beach	0	0	0	0	14	2
SMB 5-1	Manhattan Beach at 40th Street	0	0	1	1	4	1
SMB 5-3	Manhattan Beach Pier, southern drain	0	0	1	1	5	1
SMB 5-4	Hermosa City Beach at 26th St.	0	0	3	1	12	2
SMB 5-5	Hermosa Beach Pier	0	0	2	1	8	2
SMB 6-2	Redondo Municipal Pier- 100 yards south	0	0	3	1	14	2
SMB 6-5	Avenue I storm drain at Redondo Beach	0	0	3	1	6	1
SMB 6-6	Malaga Cove, Palos Verdes Estates	0	0	1	1	3	1

[5] The final receiving water limitations are group-based and shared among all MS4 Permittees located within the sub-drainage area to each beach monitoring location.

		Annual Allowable Exceedance Days of the Single Sample Objective (days)					
Station ID	Beach Monitoring Location	Summer Dry Weather (April 1 – October 31)		Winter Dry Weather (November 1 – March 31)		Wet Weather (Year-round)	
		Daily Sampling	Weekly Sampling	Daily Sampling	Weekly Sampling	Daily Sampling	Weekly Sampling
SMB 7-1	Malaga Cove, Palos Verdes Estates	0	0	1	1	14	2
SMB 7-2	Bluff Cove, Palos Verdes Estates	0	0	1	1	0	0
SMB 7-3	Long Point, Rancho Palos Verdes	0	0	1	1	5	1
SMB 7-4	Abalone Cove, Rancho Palos Verdes	0	0	0	0	1	1
SMB 7-5	Portuguese Bend Cove, Rancho Palos Verdes	0	0	1	1	2	1
SMB 7-6	White's Point, Royal Palms County Beach	0	0	1	1	6	1
SMB 7-8	Point Fermin/Wilder Annex, San Pedro	0	0	1	1	2	1
SMB 7-9	Outer Cabrillo Beach	0	0	1	1	3	1

f. Section A.4.e above shall not be applicable upon the effective date of the revised Santa Monica Bay Beaches Bacteria TMDL (Attachment A of Resolution No. R12-007). Upon the effective date of the revised Santa Monica Bay Beaches Bacteria TMDL, Permittees shall comply with the following grouped6 final single sample bacteria receiving water limitations for shoreline monitoring stations along Santa Monica Bay beaches subject to the antidegradation implementation provision in the TMDL as of the effective date of the revised Santa Monica Bay Beaches Bacteria TMDL:

Table M-4: Allowable Number of Days that may Exceed any Single Sample Bacteria Receiving Water Limitations

		Annual Allowable Exceedance Days of the Single Sample Objective (days)					
Station ID	Beach Monitoring Location	Summer Dry Weather (April 1 – October 31)		Winter Dry Weather (November 1 – March 31)		Wet Weather (Year-round)	
		Daily Sampling	Weekly Sampling	Daily Sampling	Weekly Sampling	Daily Sampling	Weekly Sampling
SMB 1-2	El Pescador State Beach	0	0	1	1	5	1
SMB 1-3	El Matador State Beach	0	0	1	1	3	1
SMB O-1	Paradise Cove	0	0	9	2	15	3
SMB 1-10	Solstice Creek	0	0	5	1	17	3
SMB O-2	Puerco Canyon Storm Drain	0	0	0	0	6	1
SMB 1-14	Las Flores Creek	0	0	6	1	17	3
SMB 1-16	Pena Creek	0	0	3	1	14	2
SMB 1-17	Tuna Canyon Creek	0	0	7	1	12	2
SMB 2-11	North Westchester Storm Drain	0	0	0	0	17	3
SMB 2-13	Imperial Highway Storm Drain	0	0	4	1	17	3
SMB 3-6	Rose Avenue Storm Drain at Venice Beach	0	0	6	1	17	3
SMB 4-1	San Nicholas Canyon Creek	0	0	4	1	14	2
SMB 5-1	Manhattan State Beach at 40th Street	0	0	1	1	4	1

[6] The final receiving water limitations are group-based and shared among all MS4 Permittees located within the sub-drainage area to each beach monitoring location.

		Annual Allowable Exceedance Days of the Single Sample Objective (days)					
Station ID	Beach Monitoring Location	Summer Dry Weather (April 1 – October 31)		Winter Dry Weather (November 1 – March 31)		Wet Weather (Year-round)	
		Daily Sampling	Weekly Sampling	Daily Sampling	Weekly Sampling	Daily Sampling	Weekly Sampling
SMB 5-3	Manhattan Beach Pier, southern drain	0	0	3	1	6	1
SMB 5-4	Hermosa Beach at 26th Street	0	0	3	1	12	2
SMB 5-5	Hermosa Beach Pier	0	0	2	1	8	2
SMB 6-2	Redondo Municipal Pier- 100 yards south at Redondo Beach	0	0	3	1	14	2
SMB 6-3	Sapphire Street Storm Drain at Redondo Beach	0	0	5	1	17	3
SMB 6-5	Avenue I Storm Drain at Redondo Beach	0	0	4	1	11	2
SMB 6-6	Malaga Cove, Palos Verdes Estates	0	0	1	1	3	1
SMB 7-1	Malaga Cove	0	0	1	1	14	2
SMB 7-2	Bluff Cove	0	0	1	1	0	0
SMB 7-3	Long Point	0	0	1	1	5	1
SMB 7-4	Abalone Cove	0	0	0	0	1	1
SMB 7-5	Portuguese Bend Cove	0	0	1	1	2	1
SMB 7-6	Royal Palms County Beach	0	0	1	1	6	1
SMB 7-8	Wilder Annex	0	0	1	1	2	1
SMB 7-9	Outer Cabrillo Beach	0	0	1	1	3	1

g. Permittees shall comply with the following geometric mean receiving water limitations for all shoreline monitoring stations along Santa Monica Bay beaches during dry weather as of the effective date of this Order and during wet weather no later than July 15, 2021:

Constituent	Geometric Mean (MPN or cfu)
Total coliform	1,000/100 mL
Fecal coliform	200/100 mL
Enterococcus	35/100 mL

h. Section A.4.g above shall not be applicable upon the effective date of the revised Santa Monica Bay Beaches Bacteria TMDL (Attachment A of Resolution No. R12-007). Upon the effective date of the revised Santa Monica Bay Beaches Bacteria TMDL, Permittees shall comply with the following geometric mean receiving water limitations for all shoreline monitoring stations along Santa Monica Bay beaches, calculated as defined in the revised Santa Monica Bay Beaches Bacteria TMDL, no later than July 15, 2021:

Constituent	Geometric Mean (MPN or cfu)
Total coliform	1,000/100 mL
Fecal coliform	200/100 mL
Enterococcus	35/100 mL

B. Santa Monica Bay Nearshore and Offshore Debris TMDL

1. Permittees subject to the provisions below are identified in Attachment K, Table K-2.

2. Permittees shall comply with the final water quality-based effluent limitation of zero trash discharged into water bodies within the Santa Monica Bay WMA and then into Santa Monica Bay or on the shoreline of Santa Monica Bay no later than March 20, 2020[7], and every year thereafter.

3. Permittees shall comply with interim and final water quality-based effluent limitations for trash discharged into Santa Monica Bay or on the shoreline of Santa Monica Bay, per the schedule below:

[7] If a Permittee by November 4, 2013, adopts local ordinances to ban plastic bags, smoking in public places and single use expanded polystyrene food packaging then the final compliance date will be extended until March 20, 2023.

Permittees	Baseline[8]	Mar 20, 2016 (80%)	Mar 20, 2017 (60%)	Mar 20, 2018 (40%)	Mar 20, 2019 (20%)	Mar 20, 2020[9] (0%)
		Annual Trash Discharge (gals/yr)				
Agoura Hills[10]	1,044	835	626	418	209	0
Calabasas[10]	1,656	1,325	994	663	331	0
Culver City	52	42	31	21	10	0
El Segundo	2,732	2,186	1,639	1,093	546	0
Hermosa Beach	1,117	894	670	447	223	0
Los Angeles, City of	25,112	20,090	15,067	10,045	5,022	0
Los Angeles, County of	5,138	4,110	3,083	2,055	1,028	0
Malibu	5,809	4,648	3,486	2,324	1,162	0
Manhattan Beach	2,501	2,001	1,501	1,001	500	0
Palos Verdes Estates	3,346	2,677	2,007	1,338	669	0
Rancho Palos Verdes	7,254	5,803	4,353	2,902	1,451	0
Redondo Beach	3,197	2,558	1,918	1,279	639	0
Rolling Hills	515	412	309	206	103	0
Rolling Hills Estates	365	292	219	146	73	0
Santa Monica	5,672	4,537	3,403	2,269	1,134	0
Torrance	2,484	1,987	1,490	993	497	0
Westlake Village[10]	3,131	2,505	1,879	1,252	626	0

4. Permittees shall comply with the interim and final water quality-based effluent limitations for trash in B.2 and B.3 above per the provisions in Part VI.E.5.

C. Santa Monica Bay TMDL for DDTs and PCBs (USEPA established)

1. Permittees subject to the provisions below are identified in Attachment K, Table K-2.

2. Permittees shall comply with the following WLAs, expressed as an annual loading of pollutants from the sediment discharged to Santa Monica Bay, per the provisions in Part VI.E.3:

Constituent	Annual Mass-Based WLA (g/yr)
DDT	27.08
PCBs	140.25

[8] If a Permittee elects not to use the default baseline, then the Permittee shall include a plan to establish a site specific trash baseline in their Trash Monitoring and Reporting Plan.

[9] Permittees shall achieve their final effluent limitation of zero trash discharge for the 2019-2020 storm year and every year thereafter.

[10] Permittees shall be deemed in compliance with the water quality-based effluent limitation for trash established to implement the Santa Monica Bay Nearshore and Offshore Debris TMDL, if the Permittee is in compliance with the water quality-based effluent limitations established to implement the Malibu Creek Watershed Trash TMDL.

3. Compliance shall be determined based on a three-year averaging period.

D. TMDLs in the Malibu Creek Subwatershed

1. Malibu Creek and Lagoon Bacteria TMDL

a. Permittees subject to the provisions below are identified in Attachment K, Table K-2.

b. Water Quality-Based Effluent Limitations

i. Permittees shall comply with the following final water quality-based effluent limitations for discharges to Malibu Lagoon during dry weather as of the effective date of this Order, and during wet weather no later than July 15, 2021:

Constituent	Effluent Limitations (MPN or cfu)	
	Daily Maximum	Geometric Mean
Total coliform*	10,000/100 mL	1,000/100 mL
Fecal coliform	400/100 mL	200/100 mL
Enterococcus	104/100 mL	35/100 mL

* Total coliform density shall not exceed a daily maximum of 1,000/100 mL, if the ratio of fecal-to-total coliform exceeds 0.1.

ii. Section D.1.b.i above shall not be applicable upon the effective date of the revised Malibu Creek and Lagoon Bacteria TMDL (Attachment A of Resolution No. R12-009). Upon the effective date of the revised Malibu Creek and Lagoon Bacteria TMDL, Permittees shall comply with the following daily maximum final water quality-based effluent limitations for discharges to Malibu Lagoon during dry weather as of the effective date of the revised Malibu Creek and Lagoon Bacteria TMDL and during wet weather no later than July 15, 2021. Permittees shall comply with the following geometric mean final water quality-based effluent limitations for each monitoring location, calculated as defined in the revised Malibu Creek and Lagoon Bacteria TMDL, no later than July 15, 2021.

Constituent	Effluent Limitations (MPN or cfu)	
	Daily Maximum	Geometric Mean
Total coliform*	10,000/100 mL	1,000/100 mL
Fecal coliform	400/100 mL	200/100 mL
Enterococcus	104/100 mL	35/100 mL

* Total coliform density shall not exceed a daily maximum of 1,000/100 mL, if the ratio of fecal-to-total coliform exceeds 0.1.

iii. Permittees shall comply with the following final water quality-based effluent limitations for discharges to Malibu Creek and its tributaries during dry weather as of the effective date of this Order, and during wet weather no later than July 15, 2021:

Constituent	Effluent Limitation (MPN or cfu)	
	Daily Maximum	Geometric Mean
E. coli	235/100 mL	126/100 mL

iv. Section D.1.b.iii above shall not be applicable upon the effective date of the revised Malibu Creek and Lagoon Bacteria TMDL (Attachment A of Resolution No. R12-009). Upon the effective date of the revised Malibu Creek and Lagoon Bacteria TMDL, Permittees shall comply with the following daily maximum final water quality-based effluent limitations for discharges to Malibu Creek and its tributaries during dry weather as of the effective date of the revised Malibu Creek and Lagoon Bacteria TMDL and during wet weather no later than July 15, 2021. Permittees shall comply with the following geometric mean final water quality-based effluent limitations for each monitoring location, calculated as defined in the revised Malibu Creek and Lagoon Bacteria TMDL, no later than July 15, 2021.

Constituent	Effluent Limitation (MPN or cfu)	
	Daily Maximum	Geometric Mean
E. coli	235/100 mL	126/100 mL

c. Receiving Water Limitations

i. Permittees shall comply with the following grouped[11] final single sample bacteria receiving water limitations for Malibu Creek, its tributaries, and Malibu Lagoon during dry weather as of the effective date of this Order, and during wet weather no later than July 15, 2021:

Time Period	Annual Allowable Exceedance Days of the Single Sample Objective (days)	
	Daily Sampling	Weekly Sampling
Summer Dry-Weather (April 1 to October 31)	0	0
Winter Dry-Weather (November 1 to March 31)	3	1
Wet Weather[12] (Year-round)	17	3

ii. Section D.1.c.i above shall not be applicable upon the effective date of the revised Malibu Creek and Lagoon Bacteria TMDL (Attachment A of Resolution No. R12-009). Upon the effective date of the revised Malibu Creek and Lagoon Bacteria TMDL, Permittees shall comply with the following grouped[13] final single sample bacteria receiving water limitations for each monitoring location within Malibu Creek and its tributaries during

[11] The final receiving water limitations are group-based and shared among all MS4 Permittees located within the drainage area to the receiving water.
[12] Wet weather is defined as days with 0.1 inch of rain or greater and the three days following the rain event.
[13] The final receiving water limitations are group-based and shared among all MS4 Permittees located within the drainage area to the receiving water.

dry weather as of the effective date of the revised Malibu Creek and Lagoon Bacteria TMDL and during wet weather no later than July 15, 2021:

Time Period	Annual Allowable Exceedance Days of the Single Sample Objective (days)	
	Daily Sampling	Weekly Sampling
Dry-Weather (Year-round)	5	1
Wet Weather[14] (Year-round)	15	2

iii. Section D.1.c.i above shall not be applicable upon the effective date of the revised Malibu Creek and Lagoon Bacteria TMDL (Attachment A of Resolution No. R12-009). Upon the effective date of the revised Malibu Creek and Lagoon Bacteria TMDL, Permittees shall comply with the following grouped[15] final single sample bacteria receiving water limitations for each monitoring location within Malibu Lagoon during dry weather as of the effective date of the revised Malibu Creek and Lagoon Bacteria TMDL and during wet weather no later than July 15, 2021:

Time Period	Annual Allowable Exceedance Days of the Single Sample Objective (days)	
	Daily Sampling	Weekly Sampling
Summer Dry-Weather (April 1 to October 31)	0	0
Winter Dry-Weather (November 1 to March 31)	9	2
Wet Weather[16] (Year-round)	17	3

iv. Permittees shall comply with the following geometric mean receiving water limitations for discharges to Malibu Lagoon during dry weather as of the effective date of this Order, and during wet weather no later than July 15, 2021:

Constituent	Geometric Mean (MPN or cfu)
Total coliform	1,000/100 mL
Fecal coliform	200/100 mL
Enterococcus	35/100 mL

v. Section D.1.c.iv above shall not be applicable upon the effective date of the revised Malibu Creek and Lagoon Bacteria TMDL (Attachment A of

[14] Wet weather is defined as days with 0.1 inch of rain or greater and the three days following the rain event.
[15] The final receiving water limitations are group-based and shared among all MS4 Permittees located within the drainage area to the receiving water.
[16] Wet weather is defined as days with 0.1 inch of rain or greater and the three days following the rain event.

Resolution No. R12-009). Upon the effective date of the revised Malibu Creek and Lagoon Bacteria TMDL, Permittees shall comply with the following geometric mean receiving water limitations for discharges to Malibu Lagoon, calculated as defined in the revised Malibu Creek and Lagoon Bacteria TMDL, no later than July 15, 2021:

Constituent	Geometric Mean (MPN or cfu)
Total coliform	1,000/100 mL
Fecal coliform	200/100 mL
Enterococcus	35/100 mL

vi. Permittees shall comply with the following geometric mean receiving water limitation for discharges to Malibu Creek and its tributaries during dry weather as of the effective date of this Order, and during wet weather no later than July 15, 2021:

Constituent	Geometric Mean (MPN or cfu)
E. coli	126/100 mL

vii. Section D.1.c.vi above shall not be applicable upon the effective date of the revised Malibu Creek and Lagoon Bacteria TMDL (Attachment A of Resolution No. R12-009). Upon the effective date of the revised Malibu Creek and Lagoon Bacteria TMDL, Permittees shall comply with the following geometric mean receiving water limitations for discharges to Malibu Creek and its tributaries, calculated as defined in the revised Malibu Creek and Lagoon Bacteria TMDL, no later than July 15, 2021:

Constituent	Geometric Mean (MPN or cfu)
E. coli	126/100 mL

2. Malibu Creek Watershed Trash TMDL

a. Permittees subject to the provisions below are identified in Attachment K, Table K-2.

b. Permittees shall comply with the final water quality-based effluent limitation of zero trash discharged to Malibu Creek from Malibu Lagoon to Malibou Lake, Malibu Lagoon, Malibou Lake, Medea Creek, Lindero Creek, Lake Lindero, and Las Virgenes Creek in the Malibu Creek Watershed no later than July 7, 2017 and every year thereafter.

c. Permittees shall comply with interim and final water quality-based effluent limitations for trash discharged to the Malibu Creek, per the schedule below:

Permittees	Baseline	July 7, 2013 (80%)	July 7, 2014 (60%)	July 7, 2015 (40%)	July 7, 2016 (20%)	July 7, 2017 (0%)
	Annual Trash Discharge (gals/yr)					
Agoura Hills	1810	1448	1086	724	362	0
Calabasas	673	539	404	269	135	0
Hidden Hills	71	57	43	28	14	0
Los Angeles County	1117	894	670	447	223	0
Malibu	226	181	136	91	45	0
Westlake Village	143	114	86	57	29	0

d. Permittees shall comply with the interim and final water quality-based effluent limitations for trash in D.2.b and D.2.c above per the provisions in Part VI.E.5.

3. Malibu Creek Watershed Nutrients TMDL (*USEPA established*)

a. Permittees subject to the provisions below are identified in Attachment K, Table K-2.

b. Permittees shall comply with the following grouped[17] WLAs per the provisions in Part VI.E.3 for discharges to Westlake Lake, Lake Lindero, Lindero Creek, Las Virgenes Creek, Medea Creek, Malibou Lake, Malibu Creek and Malibu Lagoon and its tributaries. Tributaries to Malibu Creek and Lagoon, include the following upstream water bodies; Triunfo Creek, Palo Comado Creek, Cheesebro Creek, Strokes Creek and Cold Creek.

Time Period	WLA	
	Nitrate as Nitrogen plus Nitrite as Nitrogen	Total Phosphorus
	Daily Maximum	Daily Maximum
Summer (April 15 to November 15)[18]	8 lbs/day	0.8 lbs/day
Winter (November 16 to April 14)	8 mg/L	n/a

E. TMDLs in the Ballona Creek Subwatershed

1. Ballona Creek Trash TMDL

a. Permittees subject to the provisions below are identified in Attachment K, Table K-3.

[17] USEPA was unable to specifically distinguish the amounts of pollutant loads from allocation categories associated with areas regulated by the storm water permits. Therefore, allocations for storm water permits are grouped.

[18] The mass-based summer WLAs are calculated as the sum of the allocations for "runoff from developed areas" and "dry weather urban runoff."

b. Permittees shall comply with the final water quality-based effluent limitation of zero trash discharged to Ballona Creek no later than September 30, 2015 and every year thereafter.

c. Permittees shall comply with the interim and final water quality-based effluent limitations for trash discharged to Ballona Creek, per the schedule below:

Ballona Creek Subwatershed Trash Effluent Limitations per Storm Year[19] (pounds of drip-dry trash)

Permittees	Baseline	Sept 30, 2012 (20%)	Sept 30, 2013 (10%)	Sept 30, 2014 (3.3%)	Sept 30, 2015[20] (0%)
		Annual Trash Discharge (pounds of trash)			
Beverly Hills	70,712	14,142	7,071	2,333	0
Culver City	37,271	7,454	3,727	1,230	0
Inglewood	22,324	4,465	2,232	737	0
Los Angeles, City of	942,720	188,544	94,272	31,110	0
Los Angeles, County of	52,693	10,539	5,269	1,739	0
Santa Monica	2,579	516	258	85	0
West Hollywood	13,411	2,682	1,341	443	0

Ballona Creek Subwatershed Trash Effluent Limitations per Storm Year[19] (gallons of uncompressed trash)

Permittees	Baseline	Sept 30, 2012 (20%)	Sept 30, 2013 (10%)	Sept 30, 2014 (3.3%)	Sept 30, 2015[20] (0%)
		Annual Trash Discharge (gallons of uncompressed trash)			
Beverly Hills	45,336	9,067	4,534	1,496	0
Culver City	25,081	5,016	2,508	828	0
Inglewood	14,717	2,943	1,472	486	0
Los Angeles, City of	602,068	120,414	60,207	19,868	0
Los Angeles, County of	32,679	6,536	3,268	1,078	0
Santa Monica	1,749	350	175	58	0
West Hollywood	9,360	1,872	936	309	0

d. Permittees shall comply with the interim and final water quality-based effluent limitations for trash in E.1.b and E.1.c above per the provisions in Part VI.E.5.

[19] For purposes of the provisions in this subpart, a storm year is defined as October 1 to September 30.
[20] Permittees shall achieve their final water quality-based effluent limitation of zero trash discharged for the 2014-2015 storm year and every year thereafter.

2. Ballona Creek Estuary Toxic Pollutants TMDL

a. Permittees subject to the provisions below are identified in Attachment K, Table K-3.

b. Permittees shall comply with the following final water quality-based effluent limitations no later than January 11, 2021, expressed as an annual loading of sediment-bound pollutants deposited to Ballona Creek Estuary:

Constituent	Effluent Limitations	
	Annual	Units
Cadmium	8.0	kg/yr
Copper	227.3	kg/yr
Lead	312.3	kg/yr
Silver	6.69	kg/yr
Zinc	1003	kg/yr
Chlordane	3.34	g/yr
DDTs	10.56	g/yr
Total PCBs	152	g/yr
Total PAHs	26,900	g/yr

c. Permittees shall comply with interim and final water quality-based effluent limitations for sediment-bound pollutant loads deposited to Ballona Creek Estuary, per the schedule below:

Deadline	Total Drainage Area Served by the MS4 required to meet the water quality-based effluent limitations (%)
January 11, 2013	25
January 11, 2015	50
January 11, 2017	75
January 11, 2021	100

d. Permittees shall be deemed in compliance with the water quality-based effluent limitations in Part E.2.b by demonstrating any one of the following:

i. Final water quality-based effluent limitations for sediment-bound pollutants deposited to Ballona Creek Estuary are met; or

ii. The sediment numeric targets as defined in the TMDL are met in bed sediments; or

iii. Concentrations of sediments discharged meet the numeric targets for sediment as defined in the TMDL.

3. Ballona Creek, Ballona Estuary and Sepulveda Channel Bacteria TMDL

a. Permittees subject to the provisions below are identified in Attachment K, Table K-3.

b. Water Quality-Based Effluent Limitations

i. Permittees shall comply with the following final water quality-based effluent limitations for discharges to Ballona Creek Estuary during dry weather no later than April 27, 2013, and during wet weather no later than July 15, 2021:

Constituent	Effluent Limitations (MPN or cfu)	
	Daily Maximum	Geometric Mean
Total coliform*	10,000/100 mL	1,000/100 mL
Fecal coliform	400/100 mL	200/100 mL
Enterococcus	104/100 mL	35/100 mL

* Total coliform density shall not exceed a daily maximum of 1,000/100 mL, if the ratio of fecal-to-total coliform exceeds 0.1.

ii. Section E.3.b.i above shall not be applicable upon the effective date of the revised Ballona Creek, Ballona Estuary and Sepulveda Channel Bacteria TMDL (Attachment A of Resolution No. R12-008). Upon the effective date of the revised Ballona Creek, Ballona Estuary and Sepulveda Channel Bacteria TMDL, Permittees shall comply with the following daily maximum final water quality-based effluent limitations for discharges to Ballona Creek Estuary during dry weather no later than April 27, 2013, and during wet weather no later than July 15, 2021. Permittees shall comply with the following geometric mean final water quality-based effluent limitations for each monitoring location, calculated as defined in the revised Ballona Creek, Ballona Estuary and Sepulveda Channel Bacteria TMDL, no later than July 15, 2021.

Constituent	Effluent Limitations (MPN or cfu)	
	Daily Maximum	Geometric Mean
Total coliform*	10,000/100 mL	1,000/100 mL
Fecal coliform	400/100 mL	200/100 mL
Enterococcus	104/100 mL	35/100 mL

* Total coliform density shall not exceed a daily maximum of 1,000/100 mL, if the ratio of fecal-to-total coliform exceeds 0.1.

iii. Permittees shall comply with the following final water quality-based effluent limitations for discharges to Sepulveda Channel during dry weather no later than April 27, 2013, and during wet weather no later than July 15, 2021:

Constituent	Effluent Limitation (MPN or cfu)	
	Daily Maximum	Geometric Mean
E. coli	235/100 mL	126/100 mL

iv. Section E.3.b.iii above shall not be applicable upon the effective date of the revised Ballona Creek, Ballona Estuary and Sepulveda Channel Bacteria

TMDL (Attachment A of Resolution No. R12-008). Upon the effective date of the revised Ballona Creek, Ballona Estuary and Sepulveda Channel Bacteria TMDL, Permittees shall comply with the following daily maximum final water quality-based effluent limitations for discharges to Sepulveda Channel during dry weather no later than April 27, 2013, and during wet weather no later than July 15, 2021. Permittees shall comply with the following geometric mean final water quality-based effluent limitations for each monitoring location, calculated as defined in the revised Ballona Creek, Ballona Estuary and Sepulveda Channel Bacteria TMDL, no later than July 15, 2021.

Constituent	Effluent Limitation (MPN or cfu)	
	Daily Maximum	Geometric Mean
E. coli	235/100 mL	126/100 mL

v. Permittees shall comply with the following final water quality-based effluent limitations for discharges to Ballona Creek Reach 2 during dry weather no later than April 27, 2013, and during wet weather no later than July 15, 2021:

Constituent	Effluent Limitation (MPN or cfu)	
	Daily Maximum	Geometric Mean
E. coli	576/100 mL	126/100 mL

vi. Section E.3.b.v above shall not be applicable upon the effective date of the revised Ballona Creek, Ballona Estuary and Sepulveda Channel Bacteria TMDL (Attachment A of Resolution No. R12-008). Upon the effective date of the revised Ballona Creek, Ballona Estuary and Sepulveda Channel Bacteria TMDL, Permittees shall comply with the following daily maximum final water quality-based effluent limitations for discharges to Ballona Creek Reach 2 during dry weather no later than April 27, 2013, and during wet weather no later than July 15, 2021. Permittees shall comply with the following geometric mean final water quality-based effluent limitations for each monitoring location, calculated as defined in the revised Ballona Creek, Ballona Estuary and Sepulveda Channel Bacteria TMDL, no later than July 15, 2021.

Constituent	Effluent Limitation (MPN or cfu)	
	Daily Maximum	Geometric Mean
E. coli	576/100 mL	126/100 mL

vii. Permittees shall comply with the following final water quality-based effluent limitations for discharges to Ballona Creek Reach 1 during dry weather no later than April 27, 2013, and during wet weather no later than July 15, 2021:

Constituent	Effluent Limitation (MPN or cfu)	
	Daily Maximum	Geometric Mean
Fecal coliform	4000/100 mL	2000/100 mL

viii. Section E.3.b.vii above shall not be applicable upon the effective date of the revised Ballona Creek, Ballona Estuary and Sepulveda Channel Bacteria TMDL (Attachment A of Resolution No. R12-008). Upon the effective date of the revised Ballona Creek, Ballona Estuary and Sepulveda Channel Bacteria TMDL, Permittees shall comply with the following daily maximum final water quality-based effluent limitations for discharges to Ballona Creek Reach 1 during dry weather no later than April 27, 2013, and during wet weather no later than July 15, 2021. Permittees shall comply with the following geometric mean final water quality-based effluent limitations for each monitoring location, calculated as defined in the revised Ballona Creek, Ballona Estuary and Sepulveda Channel Bacteria TMDL, no later than July 15, 2021.

Constituent	Effluent Limitation (MPN or cfu)	
	Daily Maximum	Geometric Mean
Fecal coliform	4000/100 mL	2000/100 mL

c. Receiving Water Limitations

i. Permittees shall comply with the following grouped[21] single sample bacteria receiving water limitations for Ballona Creek Estuary; Ballona Creek Reach 2 at the confluence with Ballona Creek Estuary; Centinela Creek at the confluence with Ballona Creek Estuary; Ballona Creek Reach 2; Ballona Creek Reach 1 at the confluence with Reach 2; Benedict Canyon Channel at the confluence with Ballona Creek Reach 2; and Sepulveda Channel:

Time Period	Annual Allowable Exceedance Days of the Single Sample Objective*		Deadline
	Daily Sampling	Weekly Sampling	
Summer Dry-Weather (April 1 to October 31)	0	0	April 27, 2013
Winter Dry-Weather (November 1 to March 31)	3	1	April 27, 2013
Wet Weather[22] (Year-round)	17**	3	July 15, 2021

* Exceedance days for Ballona Creek Estuary and at the confluence with Ballona Creek Estuary based on REC-1 marine water single sample bacteria water quality objectives (WQO). Exceedance days for Ballona Creek Reach 2 and at the confluence with Ballona Creek Reach 2 based on LREC-1 freshwater single sample bacteria WQO. Exceedance days for Sepulveda Channel based on REC-1 freshwater single sample bacteria WQO.

** In Ballona Creek Reach 2 and at the confluence with Reach 2, the greater of the allowable exceedance days under the reference system approach or high flow suspension shall apply.

ii. Section E.3.c.i above shall not be applicable upon the effective date of the revised Ballona Creek, Ballona Estuary and Sepulveda Channel Bacteria TMDL (Attachment A of Resolution No. R12-008). Upon the effective date of the revised Ballona Creek, Ballona Estuary and Sepulveda Channel Bacteria

[21] The final receiving water limitations are group-based and shared among all MS4 Permittees located within the drainage area.

[22] Wet weather is defined as days with 0.1 inch of rain or greater and the three days following the rain event.

TMDL, Permittees shall comply with the following grouped[23] single sample bacteria receiving water limitations for Ballona Creek Estuary; Ballona Creek Reach 2 at the confluence with Ballona Creek Estuary; and Centinela Creek at the confluence with Ballona Creek Estuary:

Time Period	Annual Allowable Exceedance Days of the REC-1 Marine Water Single Sample Bacteria Water Quality Objectives		Deadline
	Daily Sampling	Weekly Sampling	
Summer Dry-Weather (April 1 to October 31)	0	0	April 27, 2013
Winter Dry-Weather (November 1 to March 31)	9	2	April 27, 2013
Wet Weather[24] (Year-round)	17	3	July 15, 2021

iii. Section E.3.c.i above shall not be applicable upon the effective date of the revised Ballona Creek, Ballona Estuary and Sepulveda Channel Bacteria TMDL (Attachment A of Resolution No. R12-008). Upon the effective date of the revised Ballona Creek, Ballona Estuary and Sepulveda Channel Bacteria TMDL, Permittees shall comply with the following grouped[25] single sample bacteria receiving water limitations for Sepulveda Channel:

Time Period	Annual Allowable Exceedance Days of the REC-1 Fresh Water Single Sample Bacteria Water Quality Objectives		Deadline
	Daily Sampling	Weekly Sampling	
Dry-Weather	5	1	April 27, 2013
Wet Weather[26]	15	2	July 15, 2021

iv. Section E.3.c.i above shall not be applicable upon the effective date of the revised Ballona Creek, Ballona Estuary and Sepulveda Channel Bacteria TMDL (Attachment A of Resolution No. R12-008). Upon the effective date of the revised Ballona Creek, Ballona Estuary and Sepulveda Channel Bacteria TMDL, Permittees shall comply with the following grouped[27] single sample bacteria receiving water limitations for Ballona Creek Reach 2; Ballona Creek Reach 1 at the confluence with Reach 2; and Benedict Canyon Channel at the confluence with Ballona Creek Reach 2:

[23] The final receiving water limitations are group-based and shared among all MS4 Permittees located within the drainage area.
[24] Wet weather is defined as days with 0.1 inch of rain or greater and the three days following the rain event.
[25] The final receiving water limitations are group-based and shared among all MS4 Permittees located within the drainage area.
[26] Wet weather is defined as days with 0.1 inch of rain or greater and the three days following the rain event.
[27] The final receiving water limitations are group-based and shared among all MS4 Permittees located within the drainage area.

Time Period	Annual Allowable Exceedance Days of the LREC-1 Fresh Water Single Sample Bacteria Water Quality Objectives		Deadline
	Daily Sampling	Weekly Sampling	
Dry-Weather	5	1	April 27, 2013
Wet Weather[28]	15*	2	July 15, 2021

* In Ballona Creek Reach 2 and at the confluence with Reach 2, the greater of the allowable exceedance days under the reference system approach or high flow suspension shall apply.

v. Permittees shall not exceed the single sample bacteria objective of 4000/100 ml in more than 10% of the samples collected from Ballona Creek Reach 1 during any 30-day period. Permittees shall achieve compliance with this receiving water limitation during dry weather no later than April 27, 2013, and during wet weather no later than July 15, 2021.

vi. Permittees shall comply with the following geometric mean receiving water limitations for discharges to Ballona Creek Estuary; Ballona Creek Reach 2 at the confluence with Ballona Creek Estuary; and Centinela Creek at the confluence with Ballona Creek Estuary during dry weather no later than April 27, 2013, and during wet weather no later than July 15, 2021:

Constituent	Geometric Mean (MPN or cfu)
Total coliform	1,000/100 mL
Fecal coliform	200/100 mL
Enterococcus	35/100 mL

vii. Section E.3.c.vi above shall not be applicable upon the effective date of the revised Ballona Creek, Ballona Estuary and Sepulveda Channel Bacteria TMDL (Attachment A of Resolution No. R12-008). Upon the effective date of the revised Ballona Creek, Ballona Estuary and Sepulveda Channel Bacteria TMDL, Permittees shall comply with the following geometric mean receiving water limitations for discharges to Ballona Creek Estuary; Ballona Creek Reach 2 at the confluence with Ballona Creek Estuary; and Centinela Creek at the confluence with Ballona Creek Estuary, calculated as defined in the revised TMDL, no later than July 15, 2021:

Constituent	Geometric Mean (MPN or cfu)
Total coliform	1,000/100 mL
Fecal coliform	200/100 mL
Enterococcus	35/100 mL

viii. Permittees shall comply with the following geometric mean receiving water limitation for discharges to Ballona Creek Reach 2; Ballona Creek Reach 1 at

[28] Wet weather is defined as days with 0.1 inch of rain or greater and the three days following the rain event.

the confluence with Ballona Creek Reach 2; Benedict Canyon Channel at the confluence with Ballona Creek Reach 2; and Sepulveda Channel during dry weather no later than April 27, 2013, and during wet weather no later than July 15, 2021:

Constituent	Geometric Mean (MPN or cfu)
E. coli	126/100 mL

ix. Section E.3.c.viii above shall not be applicable upon the effective date of the revised Ballona Creek, Ballona Estuary and Sepulveda Channel Bacteria TMDL (Attachment A of Resolution No. R12-008). Upon the effective date of the revised Ballona Creek, Ballona Estuary and Sepulveda Channel Bacteria TMDL, Permittees shall comply with the following geometric mean receiving water limitation for discharges to Ballona Creek Reach 2; Ballona Creek Reach 1 at the confluence with Ballona Creek Reach 2; Benedict Canyon Channel at the confluence with Ballona Creek Reach 2; and Sepulveda Channel, calculated as defined in the revised TMDL, no later than July 15, 2021:

Constituent	Geometric Mean (MPN or cfu)
E. coli	126/100 mL

x. Permittees shall comply with the following geometric mean receiving water limitation for discharges to Ballona Creek Reach 1 during dry weather no later than April 27, 2013, and during wet weather no later than July 15, 2021:

Constituent	Geometric Mean (MPN or cfu)
Fecal coliform	2000/100 mL

xi. Section E.3.c.x above shall not be applicable upon the effective date of the revised Ballona Creek, Ballona Estuary and Sepulveda Channel Bacteria TMDL (Attachment A of Resolution No. R12-008). Upon the effective date of the revised Ballona Creek, Ballona Estuary and Sepulveda Channel Bacteria TMDL, Permittees shall comply with the following geometric mean receiving water limitation for discharges to Ballona Creek Reach 1, calculated as defined in the revised TMDL, no later than July 15, 2021:

Constituent	Geometric Mean (MPN or cfu)
Fecal coliform	2000/100 mL

4. Ballona Creek Metals TMDL

a. Permittees subject to the provisions below are identified in Attachment K, Table K-3.

b. Final Water Quality-Based Effluent Limitations

i. Permittees shall comply with the following dry weather[29] water quality-based effluent limitations no later than January 11, 2016, expressed as total recoverable metals discharged to Ballona Creek and Sepulveda Channel:

Constituent	Effluent Limitation Daily Maximum (g/day)	
	Ballona Creek	Sepulveda Channel
Copper	807.7	365.6
Lead	432.6	196.1
Selenium	169	76
Zinc	10,273.1	4,646.4

ii. In lieu of calculating loads, Permittees may demonstrate compliance with the following concentration-based water quality-based effluent limitations during dry weather[30] no later than January 11, 2016, expressed as total recoverable metals discharged to Ballona Creek and Sepulveda Channel:

Constituent	Effluent Limitation Daily Maximum (µg/L)
Copper	24
Lead	13
Selenium	5
Zinc	304

iii. Permittees shall comply with the following wet weather[31] water quality-based effluent limitations no later than January 11, 2021, expressed as total recoverable metals discharged to Ballona Creek and its tributaries:

Constituent	Effluent Limitation Daily Maximum (g/day)
Copper	1.70×10^{-5} x daily storm volume (L)
Lead	5.58×10^{-5} x daily storm volume (L)
Selenium	4.73×10^{-6} x daily storm volume (L)
Zinc	1.13×10^{-4} x daily storm volume (L)

[29] Dry weather is defined as any day when the maximum daily flow in Ballona Creek is less than 40 cubic feet per second (cfs) measured at Sawtelle Avenue.
[30] Ibid.
[31] Wet weather is defined as any day when the maximum daily flow in Ballona Creek is equal to or greater than 40 cfs measured at Sawtelle Avenue.

c. Permittees shall comply with interim and final water quality-based effluent limitations for metals discharged to Ballona Creek and its tributaries, per the schedule below:

Deadline	Total Drainage Area Served by the MS4 required to meet the water quality-based effluent limitations (%)	
	Dry weather	Wet weather
January 11, 2012	50	25
January 11, 2014	75	--
January 11, 2016	100	50
January 11, 2021	100	100

5. Ballona Creek Wetlands TMDL for Sediment and Invasive Exotic Vegetation *(USEPA established)*

a. Permittees subject to the provisions below are identified in Attachment K, Table K-3.

b. Permittees shall comply with the following grouped[32] WLA per the provisions in Part VI.E.3 for discharges of sediment into Ballona Creek Wetlands:

Constituent	Annual WLA[33] (m^3/yr)
Total Sediment (suspended sediment plus sediment bed load)	44,615

F. TMDLs in Marina del Rey Subwatershed

1. Marina del Rey Harbor Mothers' Beach and Back Basins Bacteria TMDL

a. Permittees subject to the provisions below are identified in Attachment K, Table K-3.

b. Permittees shall comply with the following final water quality-based effluent limitations for discharges to Marina del Rey Harbor Beach and Back Basins D, E, and F during dry weather as of the effective date of this Order, and during wet weather no later than July 15, 2021:

Constituent	Effluent Limitations (MPN or cfu)	
	Daily Maximum	Geometric Mean
Total coliform*	10,000/100 mL	1,000/100 mL
Fecal coliform	400/100 mL	200/100 mL
Enterococcus	104/100 mL	35/100 mL

* Total coliform density shall not exceed a daily maximum of 1,000/100 mL, if the ratio of fecal-to-total coliform exceeds 0.1.

[32] The WLA is group-based and shared among all MS4 Permittees located within the drainage area.
[33] The WLA is applied as a 3-year average.

c. Section F.1.b above shall not be applicable upon the effective date of the revised Marina del Rey Harbor Mothers' Beach and Back Basins Bacteria TMDL (Attachment B of Resolution No. R12-007). Upon the effective date of the revised Marina del Rey Harbor Mothers' Beach and Back Basins Bacteria TMDL, Permittees shall comply with the following daily maximum final water quality-based effluent limitations for discharges to Marina del Rey Harbor Beach and Back Basins D, E, and F during dry weather as of the effective date of the revised Marina del Rey Harbor Mothers' Beach and Back Basins Bacteria TMDL and during wet weather no later than July 15, 2021. Permittees shall comply with the following geometric mean final water quality-based effluent limitations for each monitoring location, calculated as defined in the revised Marina del Rey Harbor Mothers' Beach and Back Basins Bacteria TMDL, no later than July 15, 2021.

Constituent	Effluent Limitations (MPN or cfu)	
	Daily Maximum	Geometric Mean
Total coliform*	10,000/100 mL	1,000/100 mL
Fecal coliform	400/100 mL	200/100 mL
Enterococcus	104/100 mL	35/100 mL

* Total coliform density shall not exceed a daily maximum of 1,000/100 mL, if the ratio of fecal-to-total coliform exceeds 0.1.

d. Receiving Water Limitations

i. Permittees shall comply with the following grouped[34] final single sample bacteria receiving water limitations for all monitoring stations at Marina Beach and Basins D, E, and F, except for those monitoring stations subject to the antidegradation implementation provision in the TMDL and identified in subpart iii. below, during dry weather as of the effective date of this Order and during wet weather no later than July 15, 2021.

Time Period	Annual Allowable Exceedance Days of the Single Sample Objective (days)	
	Daily Sampling	Weekly Sampling
Summer Dry-Weather (April 1 to October 31)	0	0
Winter Dry-Weather (November 1 to March 31)	3	1
Wet Weather[35] (Year-round)	17	3

ii. Section F.1.d.i above shall not be applicable upon the effective date of the revised Marina del Rey Harbor Mothers' Beach and Back Basins Bacteria TMDL (Attachment B of Resolution No. R12-007). Upon the effective date of the revised Marina del Rey Harbor Mothers' Beach and Back Basins Bacteria

[34] The final receiving water limitations are group-based and shared among all MS4 Permittees located within the drainage area.

[35] Wet weather is defined as days with 0.1 inch of rain or greater and the three days following the rain event.

TMDL, Permittees shall comply with the following grouped[36] final single sample bacteria receiving water limitations for all monitoring stations at Marina Beach and Basins D, E, and F, except for those monitoring stations subject to the antidegradation implementation provision in the TMDL and identified in subpart iv. below, during dry weather as of the effective date of the revised Marina del Rey Harbor Mothers' Beach and Back Basins Bacteria TMDL and during wet weather no later than July 15, 2021.

Time Period	**Annual Allowable Exceedance Days of the Single Sample Objective (days)**	
	Daily Sampling	**Weekly Sampling**
Summer Dry-Weather (April 1 to October 31)	0	0
Winter Dry-Weather (November 1 to March 31)	9	2
Wet Weather[37] (Year-round)	17	3

iii. Permittees shall comply with the following grouped[38] final single sample bacteria receiving water limitations for monitoring stations in Marina del Rey subject to the antidegradation implementation provision in the TMDL as of the effective date of this Order:

		Annual Allowable Exceedance Days of the Single Sample Objective (days)					
Station ID	Monitoring Location	Summer Dry-Weather (April 1 to October 31)		Winter Dry Weather (November 1 – March 31)		Wet Weather (Year-round)	
		Daily Sampling	Weekly Sampling	Daily Sampling	Weekly Sampling	Daily Sampling	Weekly Sampling
MdRH-9	Basin F, center of basin	0	0	3	1	8	1

iv. Section F.1.d.iii above shall not be applicable upon the effective date of the revised Marina del Rey Harbor Mothers' Beach and Back Basins Bacteria TMDL (Attachment B of Resolution No. R12-007). Upon the effective date of the revised Marina del Rey Harbor Mothers' Beach and Back Basins Bacteria TMDL, Permittees shall comply with the following grouped[39] final single sample bacteria receiving water limitations for monitoring stations in Marina del Rey subject to the antidegradation implementation provision in the TMDL as of the effective date of the revised Marina del Rey Harbor Mothers' Beach and Back Basins Bacteria TMDL:

[36] The final receiving water limitations are group-based and shared among all MS4 Permittees located within the drainage area.
[37] Wet weather is defined as days with 0.1 inch of rain or greater and the three days following the rain event.
[38] The final receiving water limitations are group-based and shared among all MS4 Permittees located within the drainage area.
[39] The final receiving water limitations are group-based and shared among all MS4 Permittees located within the drainage area.

		Annual Allowable Exceedance Days of the Single Sample Objective (days)					
Station ID	Monitoring Location	Summer Dry-Weather (April 1 to October 31)		Winter Dry Weather (November 1 – March 31)		Wet Weather (Year-round)	
		Daily Sampling	Weekly Sampling	Daily Sampling	Weekly Sampling	Daily Sampling	Weekly Sampling
MdRH-9	Basin F, center of basin	0	0	9	2	8	1

v. Permittees shall comply with the following geometric mean receiving water limitations for monitoring stations at Marina Beach and Basins D, E, and F during dry weather as of the effective date of this Order, and during wet weather no later than July 15, 2021:

Constituent	**Geometric Mean (MPN or cfu)**
Total coliform	1,000/100 mL
Fecal coliform	200/100 mL
Enterococcus	35/100 mL

vi. Section F.1.d.v above shall not be applicable upon the effective date of the revised Marina del Rey Harbor Mothers' Beach and Back Basins Bacteria TMDL (Attachment B of Resolution No. R12-007). Upon the effective date of the revised Marina del Rey Harbor Mothers' Beach and Back Basins Bacteria TMDL, Permittees shall comply with the following geometric mean receiving water limitations for monitoring stations at Marina Beach and Basins D, E, and F, calculated as defined in the revised Marina del Rey Harbor Mothers' Beach and Back Basins Bacteria TMDL, no later than July 15, 2021:

Constituent	**Geometric Mean (MPN or cfu)**
Total coliform	1,000/100 mL
Fecal coliform	200/100 mL
Enterococcus	35/100 mL

2. Marina del Rey Harbor Toxic Pollutants TMDL

a. Permittees subject to the provisions below are identified in Attachment K, Table K-3.

b. Permittees shall comply with the following final water quality-based effluent limitations no later than March 22, 2016[40], expressed as an annual loading of pollutants associated with total suspended solids (TSS) discharged to Marina del Rey Harbor Back Basins D, E, and F:

[40] If an Integrated Water Resources Approach is approved by the Regional Water Board and implemented then the Permittees shall comply with the final water quality-based effluent limitations no later than March 22, 2021.

Constituent	Effluent Limitations	
	Annual	Units
Copper	2.01	kg/yr
Lead	2.75	kg/yr
Zinc	8.85	kg/yr
Chlordane	0.0295	g/yr
Total PCBs	1.34	g/yr

c. Permittees shall comply with interim and final water quality-based effluent limitations for pollutant loads associated with TSS discharged to Marina del Rey Harbor Back Basins D, E, and F, per the schedule below:

Deadline	Total Drainage Area Served by the MS4 required to meet the effluent limitations (%)
March 22, 2014	50
March 22, 2016	100

d. If an approved Integrated Water Resources Approach is implemented, Permittees shall comply with interim and final water quality-based effluent limitations for pollutant loads associated with TSS discharged to Marina del Rey Harbor Back Basins D, E, and F, per the schedule below:

Deadline	Total Drainage Area Served by the MS4 required to meet the effluent limitations (%)
March 22, 2013	25
March 22, 2015	50
March 22, 2017	75
March 22, 2021	100

e. Permittees shall be deemed in compliance with the water quality-based effluent limitations in Part F.2.b by demonstrating any one of the following:

i. Final water quality-based effluent limitations for pollutants associated with TSS discharged to Marina del Rey Harbor Back Basins D, E, and F are met; or

ii. The sediment numeric targets as defined in the TMDL are met in bed sediments; or

iii. Pollutant concentrations associated with TSS discharged meet the numeric targets for sediment as defined in the TMDL.

ATTACHMENT N. TMDLs IN DOMINGUEZ CHANNEL AND GREATER HARBOR WATERS WATERSHED MANAGEMENT AREA

A. Los Angeles Harbor Bacteria TMDL (Inner Cabrillo Beach and Main Ship Channel)

1. Permittees subject to the provisions below are identified in Attachment K, Table K-4.

2. Permittees shall comply with the following final water quality-based effluent limitations for discharges to the Los Angeles Harbor Main Ship Channel, Los Angeles and Long Beach Inner Harbor, and Inner Cabrillo Beach as of the effective date of this Order:

Constituent	Effluent Limitations (MPN or cfu)	
	Daily Maximum	Geometric Mean
Total coliform*	10,000/100 mL	1,000/100 mL
Fecal coliform	400/100 mL	200/100 mL
Enterococcus	104/100 mL	35/100 mL

* Total coliform density shall not exceed a daily maximum of 1,000/100 mL, if the ratio of fecal-to-total coliform exceeds 0.1.

3. Receiving Water Limitations

a. Permittees shall comply with the following final single sample bacteria receiving water limitations for the Los Angeles Harbor Main Ship Channel and Inner Cabrillo Beach as of the effective date of this Order:

Time Period	Receiving Water	Compliance Monitoring Location	Annual Allowable Exceedance Days of the Single Sample Objective (days)	
			Daily sampling	Weekly sampling
Summer Dry-Weather (April 1 to October 31)	Inner Cabrillo Beach	CB1 & CB2	0	0
	Main Ship Channel	HW07	0	0
Winter Dry-Weather (November 1 to March 31)	Inner Cabrillo Beach	CB1 & CB2	0	0
	Main Ship Channel	HW07	3	1
Wet Weather[1] (Year-round)	Inner Cabrillo Beach	CB1 & CB2	0	0
	Main Ship Channel	HW07	15	3

b. Section A.3.a above shall not be applicable upon the effective date of the revised Los Angeles Harbor Bacteria TMDL (Attachment C of Resolution No. R12-007). Upon the effective date of the revised Los Angeles Harbor Bacteria TMDL, Permittees shall comply with the following final single sample bacteria receiving water limitations for the Los Angeles Harbor Main Ship Channel and Inner Cabrillo Beach as of the effective date of the revised Los Angeles Harbor Bacteria TMDL:

[1] Wet weather is defined as days with 0.1 inch of rain or greater and the three days following the rain event.

Time Period	Receiving Water	Compliance Monitoring Location	Annual Allowable Exceedance Days of the Single Sample Objective (days)	
			Daily sampling	Weekly sampling
Summer Dry-Weather (April 1 to October 31)	Inner Cabrillo Beach	CB1 & CB2	0	0
	Main Ship Channel	HW07	0	0
Winter Dry-Weather (November 1 to March 31)	Inner Cabrillo Beach	CB1 & CB2	0	0
	Main Ship Channel	HW07	8	1
Wet Weather[2] (Year-round)	Inner Cabrillo Beach	CB1 & CB2	0	0
	Main Ship Channel	HW07	15	3

c. Permittees shall comply with the following geometric mean receiving water limitations for the Los Angeles Harbor Main Ship Channel, Los Angeles and Long Beach Inner Harbor, and Inner Cabrillo Beach as of the effective date of this Order:

Constituent	Geometric Mean
Total coliform	1,000 MPN/100 mL
Fecal coliform	200 MPN/100 mL
Enterococcus	35 MPN/100 mL

B. Machado Lake Trash TMDL

1. Permittees subject to the provisions below are identified in Attachment K, Table K-4.

2. Permittees shall comply with the final water quality-based effluent limitation of zero trash discharged to Machado Lake no later than March 6, 2016, and every year thereafter.

3. Permittees shall comply with interim and final water quality-based effluent limitations for trash discharged to Machado Lake, per the schedule below:

Machado Lake Trash Water Quality-Based Effluent Limitations (gallons of uncompressed trash per year)

Permittees	Baseline[3]	3/6/2012 (80%)	3/6/2013 (60%)	3/6/2014 (40%)	3/6/2015 (20%)	3/6/2016[4] (0%)
		Annual Trash Discharge (gallons/yr)				
Carson	8141	6513	4885	3257	1628	0
Lomita	9393	7514	5636	3757	1879	0
City of Los Angeles	12331	9865	7399	4932	2466	0
Los Angeles County	8304	6643	4982	3322	1661	0

[2] Wet weather is defined as days with 0.1 inch of rain or greater and the three days following the rain event.
[3] The Regional Water Board calculated the baseline water quality-based effluent limitations for the Permittees based on the estimated trash generation rate of 5334 gallons of uncompressed trash per square mile per year.
[4] Permittees shall achieve their final effluent limitation of zero trash discharge for the 2015-2016 storm year and every year thereafter.

Los Angeles County Flood Control District	16	13	10	7	3	0
Palos Verdes Estates	1976	1581	1186	791	395	0
Rancho Palos Verdes	5227	4181	3136	2091	1045	0
Redondo Beach	18	15	11	7	4	0
Rolling Hills	7004	5603	4202	2801	1401	0
Rolling Hills Estates	14722	11777	8833	5889	2944	0
Torrance	34809	27847	20885	13924	6962	0

4. If a Permittee opts to derive a site specific trash generation rate through its Trash Monitoring and Reporting Plan (TMRP), the baseline limitation will be calculated by multiplying the point source area(s) by the derived trash generation rate(s).
5. Permittees shall comply with the interim and final water quality-based effluent limitations for trash in B.2 and B.3 above per the provisions in Part VI.E.5.

C. Machado Lake Nutrient TMDL

1. Permittees subject to the provisions below are identified in Attachment K, Table K-4.
2. Permittees shall comply with the following interim and final water quality-based effluent limitations for discharges to Machado Lake:

Deadline	Interim and Final Effluent Limitations	
	Monthly Average Total Phosphorus (mg/L)	Monthly Average Total Nitrogen ($TKN+NO_3$-N+NO_2-N) (mg/L)
As of the effective date of this Order	1.25	3.5
March 11, 2014	1.25	2.45
September 11, 2018	0.10	1.0

3. Compliance Determination
   a. Permittees may be deemed in compliance with the water quality-based effluent limitations by actively participating in a Lake Water Quality Management Plan (LWQMP) and attaining the receiving water limitations for Machado Lake. The City of Los Angeles has entered into a Memorandum of Agreement with the Regional Water Board to implement the LWQMP and reduce external nutrient loading to attain the following receiving water limitations:

Deadline	Interim and Final Receiving Water Limitations	
	Monthly Average Total Phosphorus (mg/L)	Monthly Average Total Nitrogen ($TKN+NO_3$-N+NO_2-N) (mg/L)
As of the effective date of this Order	1.25	3.5
March 11, 2014	1.25	2.45
September 11, 2018	0.10	1.0

b. Permittees may be deemed in compliance with water quality-based effluent limitations by demonstrating reduction of total nitrogen and total phosphorous on an annual mass basis measured at the storm drain outfall of the Permittee's drainage area where approved by the Regional Water Board Executive Officer based on the results of a special study by the Permittee.[5]

i. The County of Los Angeles submitted a special study work plan, which was approved by the Regional Water Board Executive Officer, and established the following annual mass-based water quality based effluent limitations:

Deadline	Interim and Final Effluent Limitations	
	Annual Load Total Phosphorus (kg)	Annual Load Total Nitrogen ($TKN+NO_3$-$N+NO_2$-N) (kg)
March 11, 2014	887	1739
September 11, 2018	71	710

ii. The City of Torrance submitted a special study work plan, which was approved by the Regional Water Board Executive Officer, and established the following annual mass-based water quality based effluent limitations:

Deadline	Interim and Final Effluent Limitations	
	Annual Load Total Phosphorus (kg)	Annual Load Total Nitrogen ($TKN+NO_3$-$N+NO_2$-N) (kg)
March 11, 2014	3,760	7,370
September 11, 2018	301	3008

D. Machado Lake Pesticides and PCBs TMDL

1. Permittees subject to the provisions below are identified in Attachment K, Table K-4.

2. Permittees shall comply with the following water quality-based effluent limitations for discharges of suspended sediments to Machado Lake, applied as a 3-year average no later than September 30, 2019:

Pollutant	Effluent Limitations for Suspended Sediment-Associated Contaminants (µg/kg dry weight)
Total PCBs	59.8
DDT (all congeners)	4.16
DDE (all congeners)	3.16
DDD (all congeners)	4.88
Total DDT	5.28
Chlordane	3.24
Dieldrin	1.9

[5] The annual mass-based allocation shall be equivalent to a monthly average concentration of 0.1 mg/L total phosphorus and 1.0 mg/L total nitrogen based on approved flow conditions.

E. Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters Toxic Pollutants TMDL

1. Permittees subject to the provisions below are identified in Attachment K, Tables K-4 and K-13.

2. Permittees shall comply with the interim water quality-based effluent limitations listed below, as of the effective date of this Order:

a. Permittees shall comply with the following interim water quality-based effluent limitations for discharges to Dominguez Channel freshwater during wet weather:

i. The freshwater toxicity interim water quality-based effluent limitation is 2 TUc. The freshwater interim effluent limitation shall be implemented as a trigger requiring initiation and implementation of the TRE/TIE process as outlined in US EPA's "Understanding and Accounting for Method Variability in Whole Effluent Toxicity Applications Under the National Pollutant Discharge Elimination System Program" (2000).

ii. Permittees shall comply with the following interim metals water quality-based effluent limitations for discharges to the Dominguez Channel freshwater and Torrance Lateral during wet weather:

Metals	Interim Effluent Limitation Daily Maximum (µg/L)
Total Copper	207.51
Total Lead	122.88
Total Zinc	898.87

b. Permittees shall comply with the following interim concentration-based water quality-based effluent limitations for pollutant concentrations in the sediment discharged to the Dominguez Channel Estuary and Greater Los Angeles and Long Beach Harbor Waters:

Water Body	Interim Effluent Limitations Daily Maximum (mg/kg sediment)					
	Copper	Lead	Zinc	DDT	PAHs	PCBs
Dominguez Channel Estuary (below Vermont Avenue)	220.0	510.0	789.0	1.727	31.60	1.490
Long Beach Inner Harbor	142.3	50.4	240.6	0.070	4.58	0.060
Los Angeles Inner Harbor	154.1	145.5	362.0	0.341	90.30	2.107
Long Beach Outer Harbor (inside breakwater)	67.3	46.7	150	0.075	4.022	0.248
Los Angeles Outer Harbor (inside breakwater)	104.1	46.7	150	0.097	4.022	0.310
Los Angeles River Estuary	53.0	46.7	183.5	0.254	4.36	0.683
San Pedro Bay Near/Off Shore Zones	76.9	66.6	263.1	0.057	4.022	0.193
Los Angeles Harbor - Cabrillo Marina	367.6	72.6	281.8	0.186	36.12	0.199
Los Angeles Harbor - Consolidated Slip	1470.0	1100.0	1705.0	1.724	386.00	1.920
Los Angeles Harbor - Inner Cabrillo Beach Area	129.7	46.7	163.1	0.145	4.022	0.033
Fish Harbor	558.6	116.5	430.5	40.5	2102.7	36.6

3. Permittees shall comply with the final water quality-based effluent limitations as listed below no later than March 23, 2032, and every year thereafter:

a. Dominguez Channel Freshwater – Wet Weather

i. Freshwater Toxicity Effluent Limitation shall not exceed the monthly median of 1 TUc.

ii. Permittees shall comply with the following final metals water quality-based effluent limitations for discharges to Dominguez Channel and all upstream reaches and tributaries of Dominguez Channel above Vermont Avenue:

Metals	Water Column Mass-Based Final Effluent Limitation Daily Maximum[6] (g/day)
Total Copper	1,300.3
Total Lead	5,733.7
Total Zinc	9,355.5

b. Torrance Lateral Freshwater and Sediment – Wet Weather

i. Permittees shall comply with the following final metals water quality-based effluent limitations for discharges to the Torrance Lateral:

Metals	Water Column Effluent Limitation Daily Maximum[7] (unfiltered, µg/L)
Total Copper	9.7
Total Lead	42.7
Total Zinc	69.7

ii. Permittees shall comply with the following final concentration-based water quality-based effluent limitations for pollutant concentrations in the sediment discharged to the Torrance Lateral:

Metals	Concentration-Based Effluent Limitation Daily Maximum (mg/kg dry)
Total Copper	31.6
Total Lead	35.8
Total Zinc	121

[6] Effluent limitations are based on a hardness of 50 mg/L, and 90th percentile of annual flow rates (62.7 cfs) in Dominguez Channel. Recalculated mass-based effluent limitations using ambient hardness and flow rate at the time of sampling are consistent with the assumptions and requirements of the TMDL. In addition to the effluent limitations above, samples collected during flow conditions less than the 90th percentile of annual flow rates must demonstrate that the acute and chronic hardness dependent water quality criteria provided in the California Toxics Rule (CTR) are achieved.

[7] Effluent limitations are based on a hardness of 50 mg/L. Recalculated concentration-based effluent limitations using ambient hardness at the time of sampling are consistent with the assumptions and requirements of the TMDL. In addition to the effluent limitations above, samples collected during flow conditions less than the 90th percentile of annual flow rates must demonstrate that the acute and chronic hardness dependent water quality criteria provided in the CTR are achieved.

c. Dominguez Channel Estuary and Greater Los Angeles and Long Beach Harbor Waters

i. Permittees shall comply with the following final mass-based water quality-based effluent limitations, expressed as an annual loading of pollutants in the sediment deposited to Dominguez Channel Estuary, Los Angeles River Estuary, and the Greater Los Angeles and Long Beach Harbor Waters:

Water Body	Final Effluent Limitations Annual (kg/yr)			
	Total Cu	Total Pb	Total Zn	Total PAHs
Dominguez Channel Estuary	22.4	54.2	271.8	0.134
Consolidated Slip	2.73	3.63	28.7	0.0058
Inner Harbor	1.7	34.0	115.9	0.088
Outer Harbor	0.91	26.1	81.5	0.105
Fish Harbor (POLA)	0.00017	0.54	1.62	0.007
Cabrillo Marina (POLA)	0.0196	0.289	0.74	0.00016
San Pedro Bay	20.3	54.7	213.1	1.76
LA River Estuary	35.3	65.7	242.0	2.31

ii. Permittees shall comply with the following final concentration-based water quality-based effluent limitations for pollutant concentrations in the sediments discharged to the Dominguez Channel Estuary, Consolidated Slip, and Fish Harbor:

Water Body	Effluent Limitations Daily Maximum (mg/kg dry sediment)		
	Cadmium	Chromium	Mercury
Dominguez Channel Estuary	1.2	--	--
Consolidated Slip	1.2	81	0.15
Fish Harbor	--	--	0.15

d. Permittees shall comply with the following final mass-based water quality-based effluent limitations, expressed as an annual loading of total DDT and total PCBs in the sediment deposited to Dominguez Channel Estuary, Los Angeles River Estuary, and the Greater Los Angeles and Long Beach Harbor Waters:

Water Body	Final Effluent Limitations Annual (g/yr)	
	Total DDTs	Total PCBs
Dominguez Channel Estuary	0.250	0.207
Consolidated Slip	0.009	0.004
Inner Harbor	0.051	0.059
Outer Harbor	0.005	0.020
Fish Harbor	0.0003	0.0019
Cabrillo Marina	0.000028	0.000025
Inner Cabrillo Beach	0.0001	0.0003
San Pedro Bay	0.049	0.44
LA River Estuary	0.100	0.324

4. Compliance Determination

a. Permittees shall be deemed in compliance with the interim concentration-based water quality-based effluent limitations for pollutant concentrations in the sediment as listed above in part E.2.b by meeting any one of the following methods:

i. Demonstrate that the sediment quality condition of *Unimpacted* or *Likely Unimpacted* via the interpretation and integration of multiple lines of evidence as defined in the Sediment Quality Objectives (SQO) Part 1, is met; or

ii. Meet the interim water quality-based effluent limitations in bed sediment over a three-year averaging period; or

iii. Meet the interim water quality-based effluent limitations in the discharge over a three-year averaging period.

b. Permittees shall be deemed in compliance with the final fresh water metals water quality-based effluent limitations for discharges to Dominguez Channel and Torrance Lateral as listed above in parts E.3.a.ii and E.3.b.i by meeting any one of the following methods:

i. Final metals water quality-based effluent limitations are met; or

ii. CTR total metals criteria are met instream; or

iii. CTR total metals criteria are met in the discharge.

c. Permittees shall be deemed in compliance with the final water quality-based effluent limitations for pollutants in the sediment as listed above in parts E.3.c.i and E.3.c.ii by meeting any one of the following methods:

i. Final water quality-based effluent limitations for pollutants in the sediment are met; or

ii. The qualitative sediment condition of *Unimpacted* or *Likely Unimpacted* via the interpretation and integration of multiple lines of evidence as defined in the SQO Part 1, is met, with the exception of chromium, which is not included in the SQO Part 1; or

iii. Sediment numeric targets are met in bed sediments over a three-year averaging period.

d. Permittees shall be deemed in compliance with the final water quality-based effluent limitations for total DDT and total PCBs in the sediment as listed above in part E.3.d by meeting any one of the following methods:

i. Fish tissue targets are met in species resident to the specified water bodies[8]; or

ii. Final water quality-based effluent limitations for pollutants in the sediment are met; or

[8] A site-specific study to determine resident species shall be submitted to the Regional Water Board Executive Officer for approval.

iii. Sediment numeric targets to protect fish tissue are met in bed sediments over a three-year averaging period; or

iv. Demonstrate that the sediment quality condition protective of fish tissue is achieved per the State Water Board's Statewide Enclosed Bays and Estuaries Plan.

ATTACHMENT O. TMDLs IN LOS ANGELES RIVER WATERSHED MANAGEMENT AREA

A. Los Angeles River Watershed Trash TMDL

1. Permittees subject to the provisions below are identified in Attachment K, Table K-5.
2. Permittees shall comply with the final water quality-based effluent limitation of zero trash discharged to the Los Angeles River no later than September 30, 2016 and every year thereafter.
3. Permittees shall comply with interim and final water quality-based effluent limitations for trash discharged to the Los Angeles River, per the schedule below:

Los Angeles River Watershed Trash Effluent Limitations[1] per Storm Year[2] (gallons of uncompressed trash)

Permittees	Baseline	2012 (30%)	2013 (20%)	2014 (10%)	2015 (3.3%)	2016[3] (0%)
Alhambra	39903	11971	7981	3990	1317	0
Arcadia	50108	15032	10022	5011	1654	0
Bell	16026	4808	3205	1603	529	0
Bell Gardens	13500	4050	2700	1350	446	0
Bradbury	4277	1283	855	428	141	0
Burbank	92590	27777	18518	9259	3055	0
Calabasas	22505	6752	4501	2251	743	0
Carson	6832	2050	1366	683	225	0
Commerce	58733	17620	11747	5873	1938	0
Compton	53191	15957	10638	5319	1755	0
Cudahy	5935	1781	1187	594	196	0
Downey	39063	11719	7813	3906	1289	0
Duarte	12210	3663	2442	1221	403	0
El Monte	42208	12662	8442	4221	1393	0
Glendale	140314	42094	28063	14031	4630	0
Hidden Hills	3663	1099	733	366	121	0
Huntington Park	19159	5748	3832	1916	632	0
Irwindale	12352	3706	2470	1235	408	0
La Cañada Flintridge	33496	10049	6699	3350	1105	0
Los Angeles	1374845	412454	274969	137485	45370	0
Los Angeles County	310223	93067	62045	31022	10237	0
Lynwood	28201	8460	5640	2820	931	0
Maywood	6129	1839	1226	613	202	0
Monrovia	46687	14006	9337	4669	1541	0
Montebello	50369	15111	10074	5037	1662	0
Monterey Park	38899	11670	7780	3890	1284	0
Paramount	27452	8236	5490	2745	906	0
Pasadena	111998	33599	22400	11200	3696	0
Pico Rivera	13953	4186	2791	1395	460	0
Rosemead	27305	8192	5461	2731	901	0
San Fernando	13947	4184	2789	1395	460	0
San Gabriel	20343	6103	4069	2034	671	0

[1] Effluent limitations are expressed as allowable trash discharge relative to baseline Waste Load Allocations specified in Table 7-2.2 of the Basin Plan.
[2] Storm year is defined as October 1 to September 30 herein.
[3] Permittees shall achieve their final effluent limitation of zero trash discharge for the 2015-2016 storm year and every year thereafter.

Permittees	Baseline	2012 (30%)	2013 (20%)	2014 (10%)	2015 (3.3%)	2016[3] (0%)
San Marino	14391	4317	2878	1439	475	0
Santa Clarita	901	270	180	90	30	0
Sierra Madre	11611	3483	2322	1161	383	0
Signal Hill	9434	2830	1887	943	311	0
Simi Valley	137	41	27	14	5	0
South El Monte	15999	4800	3200	1600	528	0
South Gate	43904	13171	8781	4390	1449	0
South Pasadena	14907	4472	2981	1491	492	0
Temple City	17572	5272	3514	1757	580	0
Vernon	47203	14161	9441	4720	1558	0

Los Angeles River Watershed Trash Effluent Limitations[4] per Storm Year[5] (pounds of drip-dry trash)

Permittees	Baseline	2012 (30%)	2013 (20%)	2014 (10%)	2015 (3.3%)	2016[6] (0%)
Alhambra	68761	20628	13752	6876	2269	0
Arcadia	93036	27911	18607	9304	3070	0
Bell	25337	7601	5067	2534	836	0
Bell Gardens	23371	7011	4674	2337	771	0
Bradbury	12160	3648	2432	1216	401	0
Burbank	170389	51117	34078	17039	5623	0
Calabasas	52230	15669	10446	5223	1724	0
Carson	10208	3062	2042	1021	337	0
Commerce	85481	25644	17096	8548	2821	0
Compton	86356	25907	17271	8636	2850	0
Cudahy	10061	3018	2012	1006	332	0
Downey	68507	20552	13701	6851	2261	0
Duarte	23687	7106	4737	2369	782	0
El Monte	68267	20480	13653	6827	2253	0
Glendale	293498	88049	58700	29350	9685	0
Hidden Hills	10821	3246	2164	1082	357	0
Huntington Park	30929	9279	6186	3093	1021	0
Irwindale	17911	5373	3582	1791	591	0
La Cañada Flintridge	73747	22124	14749	7375	2434	0
Los Angeles	2572500	771750	514500	257250	84893	0
Los Angeles County	651806	195542	130361	65181	21510	0
Lynwood	46467	13940	9293	4647	1533	0
Maywood	10549	3165	2110	1055	348	0
Monrovia	100988	30296	20198	10099	3333	0
Montebello	83707	25112	16741	8371	2762	0
Monterey Park	70456	21137	14091	7046	2325	0
Paramount	44490	13347	8898	4449	1468	0
Pasadena	207514	62254	41503	20751	6848	0
Pico Rivera	22549	6765	4510	2255	744	0
Rosemead	47378	14213	9476	4738	1563	0
San Fernando	23077	6923	4615	2308	762	0
San Gabriel	36437	10931	7287	3644	1202	0

[4] Effluent limitations are expressed as allowable trash discharge relative to baseline Waste Load Allocations specified in Table 7-2.2 of the Basin Plan.

[5] Storm year is defined as October 1 to September 30 herein.

[6] Permittees shall achieve their final effluent limitation of zero trash discharge for the 2015-2016 storm year and every year thereafter.

Permittees	Baseline	2012 (30%)	2013 (20%)	2014 (10%)	2015 (3.3%)	2016[6] (0%)
San Marino	29147	8744	5829	2915	962	0
Santa Clarita	2326	698	465	233	77	0
Sierra Madre	25192	7558	5038	2519	831	0
Signal Hill	14220	4266	2844	1422	469	0
Simi Valley	344	103	69	34	11	0
South El Monte	24319	7296	4864	2432	803	0
South Gate	72333	21700	14467	7233	2387	0
South Pasadena	28357	8507	5671	2836	936	0
Temple City	31819	9546	6364	3182	1050	0
Vernon	66814	20044	13363	6681	2205	0

4. Permittees shall comply with the interim and final water quality-based effluent limitations for trash in A.2 and A.3 above per the provisions in Part VI.E.5.

B. Los Angeles River Nitrogen Compounds and Related Effects TMDL

1. Permittees subject to the provisions below are identified in Attachment K, Table K-5.

2. Permittees shall comply with the following water quality-based effluent limitations as of the effective date of this Order:

Water Body	NH_3-N (mg/L)		NO_3-N (mg/L)	NO_2-N (mg/L)	NO_3-N+NO_2-N (mg/L)
	One-hour Average	Thirty-day Average	Thirty-day Average	Thirty-day Average	Thirty-day Average
Los Angeles River above Los Angeles-Glendale WRP (LAG)	4.7	1.6	8.0	1.0	8.0
Los Angeles River below LAG	8.7	2.4	8.0	1.0	8.0
Los Angeles Tributaries	10.1	2.3	8.0	1.0	8.0

C. Los Angeles River and Tributaries Metals TMDL

1. Permittees subject to the provisions below are identified in Attachment K, Table K-5.

2. Final Water Quality-Based Effluent Limitations

a. The watershed is divided into five jurisdictional groups based on the subwatersheds of the tributaries that drain to each reach of the river. Each jurisdictional group shall achieve compliance in prescribed percentages of its subwatershed(s). Jurisdictional groups can be reorganized or subdivided upon approval by the Regional Water Board Executive Officer.

b. Permittees shall comply with the following grouped[7] dry weather[8] water quality-based effluent limitations no later than January 11, 2024, expressed as total recoverable metals.[9]

[7] The dry weather water quality-based effluent limitations are grouped-based and shared by the MS4 Permittees that are located within the drainage area.

[8] Dry weather is defined as any day when the maximum daily flow in the Los Angeles River is less than 500 cfs measured at the Wardlow gage station.

[9] Dry weather effluent limitations are equal to storm drain flows (critical flows minus median POTW flows minus median open space flows) multiplied by reach specific numeric targets, minus the contribution from direct air deposition.

Waterbody	Effluent Limitations Daily Maximum (kg/day)		
	Copper	Lead	Zinc
LA River Reach 6	WER[1] x 0.53	WER[1] x 0.33	---
LA River Reach 5	WER[1] x 0.05	WER[1] x 0.03	---
LA River Reach 4	WER[1] x 0.32	WER[1] x 0.12	---
LA River Reach 3	WER[1] x 0.06	WER[1] x 0.03	---
LA River Reach 2	WER[1] x 0.13	WER[1] x 0.07	---
LA River Reach 1	WER[1] x 0.14	WER[1] x 0.07	---
Bell Creek	WER[1] x 0.06	WER[1] x 0.04	---
Tujunga Wash	WER[1] x 0.001	WER[1] x 0.0002	---
Burbank Channel	WER[1] x 0.15	WER[1] x 0.07	---
Verdugo Wash	WER[1] x 0.18	WER[1] x 0.10	---
Arroyo Seco	WER[1] x 0.01	WER[1] x 0.01	---
Rio Hondo Reach 1	WER[1] x 0.01	WER[1] x 0.006	WER[1] x 0.16
Compton Creek	WER[1] x 0.04	WER[1] x 0.02	---

[1]WER(s) have a default value of 1.0 unless site-specific WER(s) are approved via the Basin Plan Amendment process.

c. In lieu of calculating loads, Permittees may demonstrate compliance with the following concentration-based water quality-based effluent limitations during dry weather no later than January 11, 2024, expressed as total recoverable metals:

Waterbody	Effluent Limitations Daily Maximum (µg total recoverable metals/L)		
	Copper	Lead	Zinc
LA River Reach 5, 6 and Bell Creek	WER[1] x 30	WER[1] x 19	---
LA River Reach 4	WER[1] x 26	WER[1] x 10	---
LA River Reach 3 above LA-Glendale WRP and Verdugo Wash	WER[1] x 23	WER[1] x 12	---
LA River Reach 3 below LA-Glendale WRP	WER[1] x 26	WER[1] x 12	---
Burbank Western Channel (above WRP)	WER[1] x 26	WER[1] x 14	---
Burbank Western Channel (below WRP)	WER[1] x 19	WER[1] x 9.1	---
LA River Reach 2 and Arroyo Seco	WER[1] x 22	WER[1] x 11	---
LA River Reach 1	WER[1] x 23	WER[1] x 12	---
Compton Creek	WER[1] x 19	WER[1] x 8.9	---
Rio Hondo Reach 1	WER[1] x 13	WER[1] x 5.0	WER[1] x 131

[1] WER(s) have a default value of 1.0 unless site-specific WER(s) are approved via the Basin Plan Amendment process.

d. Permittees shall comply with the following grouped[10] wet weather[11] water quality-based effluent limitations no later than January 11, 2028, expressed as total recoverable metals discharged to all reaches of the Los Angeles River and its tributaries.

Constituent	Effluent Limitation Daily Maximum (kg/day)
Cadmium	WER[1] x 2.8 x 10^{-9} x daily volume (L) – 1.8
Copper	WER[1] x 1.5 x 10^{-8} x daily volume (L) – 9.5
Lead	WER[1] x 5.6 x 10^{-8} x daily volume (L) – 3.85
Zinc	WER[1] x 1.4 x 10^{-7} x daily volume (L) – 83

[1] WER(s) have a default value of 1.0 unless site-specific WER(s) are approved via the Basin Plan Amendment process.

3. Permittees shall comply with interim and final water quality-based effluent limitations for metals discharged to the Los Angeles River and its tributaries, per the schedule below:

Deadline	Total Drainage Area Served by the MS4 required to meet the water quality-based effluent limitations (%)	
	Dry weather	Wet weather
January 11, 2012	50	25
January 11, 2020	75	--
January 11, 2024	100	50
January 11, 2028	100	100

D. Los Angeles River Watershed Bacteria TMDL

1. Permittees subject to the provisions below are identified in Attachment K, Table K-5.

2. Permittees shall comply with the following final water quality-based effluent limitations for discharges to the Los Angeles River and its tributaries during dry weather according to the schedule in Table O-1, and during wet weather no later than March 23, 2037:

Constituent	Effluent Limitation (MPN or cfu)	
	Daily Maximum	Geometric Mean
E. coli	235/100 mL	126/100 mL

[10] The wet weather water quality-based effluent limitations are grouped-based and shared among all MS4 Permittees located within the drainage area.

[11] Wet weather is defined as any day when the maximum daily flow in the Los Angeles River is equal to or greater than 500 cfs measured at the Wardlow gage station.

3. Permittees shall comply with the following grouped[12] interim dry weather single sample bacteria water quality-based effluent limitations for specific river segments and tributaries as listed in the table, below, according to the schedule in Table O-1:

River Segment or Tributary	Daily Maximum *E. coli* Load (10^9 MPN/Day)
Los Angeles River Segment A (Willow to Rosecrans)	301
Los Angeles River Segment B (Rosecrans to Figueroa)	518
Los Angeles River Segment C (Figueroa to Tujunga)	463
Los Angeles River Segment D (Tujunga to Balboa)	454
Los Angeles River Segment E (Balboa to headwaters)	32
Aliso Canyon Wash	23
Arroyo Seco	24
Bell Creek	14
Bull Creek	9
Burbank Western Channel	86
Compton Creek	7
Dry Canyon	7
McCoy Canyon	7
Rio Hondo	2
Tujunga Wash	10
Verdugo Wash	51

a. Unexpectedly high-loading outfalls may be excluded from interim compliance calculations under the following circumstances: If an outfall which was 1) loading E. coli at a rate less than the 25th percentile of outfalls during the monitoring events used to develop the "MS4 Load Reduction Strategy" (LRS), but, at the time of compliance monitoring, is 2) loading E. coli at a rate greater than the 90th percentile of outfalls, and 3) actions are taken prior to the end of the first phase (i.e. 10 years after the beginning of the segment or tributary specific phase) such that the outfall is returned to a loading less than the 50th percentile of the outfalls at compliance monitoring, then the 90th percentile data from the outfall can be excluded from the compliance loading calculations.

b. Likewise, if an outfall which was 1) the subject of a dry weather diversion is found, at the time of compliance monitoring, to be 2) contributing greater than the

[12] The interim dry weather water quality-based effluent limitations are group-based and shared among all MS4 Permittees located within the drainage area. However, the interim dry weather water quality-based effluent limitations may be distributed based on proportional drainage area, upon approval of the Regional Water Board Executive Officer.

90th percentile loading rate, and 3) actions are taken such that the outfall is returned to a loading less than the 50th percentile of the outfalls at compliance monitoring, and a maintenance schedule for the diversion is submitted with the compliance report, then the 90th percentile data from the outfall can be excluded from the compliance loading calculations.

4. Receiving Water Limitations

a. Permittees shall comply with the following grouped[13] final single sample bacteria receiving water limitations for discharges to the Los Angeles River and its tributaries during dry weather according to the schedule in Table O-1, and during wet weather no later than March 23, 2037:

Time Period	Annual Allowable Exceedance Days of the Single Sample Objective (days)	
	Daily Sampling	Weekly Sampling
Dry Weather	5	1
Non-HFS[14] Waterbodies Wet Weather	15	2
HFS Waterbodies Wet Weather	10 (not including HSF days)	2 (not including HSF days)

b. Permittees shall comply with the following geometric mean receiving water limitation for discharges to the Los Angeles River and its tributaries during dry weather according to the schedule in Table O-1, and during wet weather no later than March 23, 2037:

Constituent	Geometric Mean (MPN or cfu)
E. coli	126/100 mL

Table O-1. Los Angeles River Bacteria Implementation Schedule for Dry Weather

Italics in this Table refer to Permittees using an alternative compliance plan instead of an LRS.

Implementation Action	Responsible Parties	Deadline
SEGMENT B (upper and middle Reach 2 – Figueroa Street to Rosecrans Avenue)		
First phase – Segment B		
Submit a Load Reduction Strategy (LRS) for Segment B *(or submit an alternative compliance plan)*	MS4 Permittees discharging to Segment B	September 23, 2014
Complete implementation of LRS	MS4 Permittees discharging to Segment B, if using LRS	March 23, 2019

[13] The final receiving water limitations are group-based and shared among all MS4 Permittees, which includes LA MS4, Long Beach MS4, and Caltrans.

[14] HFS stands for high flow suspension as defined in Chapter 2 of the Basin Plan.

Implementation Action	Responsible Parties	Deadline
Achieve interim (or final) water quality-based effluent limitations and submit report to Regional Water Board	MS4 Permittees discharging to Segment B, if using LRS	March 23, 2022
Achieve final water quality-based effluent limitations or demonstrate that non-compliance is due to upstream contributions and submit report to Regional Water Board	*MS4 Permittees discharging to Segment B, if using alternative compliance plan*	*March 23, 2022*
Second phase, if necessary – Segment B for LRS approach only		
Submit a new LRS	MS4 Permittees discharging to Segment B	March 23, 2023
Complete implementation of LRS	MS4 Permittees discharging to Segment B, if using LRS	September 23, 2026
Achieve final water quality-based effluent limitations in Segment B or demonstrate that non-compliance is only due to upstream contributions and submit report to Regional Water Board	MS4 Permittees discharging to Segment B, if using LRS	September 23, 2028
SEGMENT B TRIBUTARIES (Rio Hondo and Arroyo Seco)		
First phase – Segment B Tributaries (Rio Hondo and Arroyo Seco)		
Submit a Load Reduction Strategy (LRS) for Segment B tributaries *(or submit an alternative compliance plan)*	MS4 Permittees discharging to Segment B tributaries	March 23, 2016
Complete implementation of LRS	MS4 Permittees discharging to Segment B tributaries, if using LRS	September 23, 2020
Achieve interim (or final) water quality-based effluent limitations and submit report to Regional Water Board	MS4 Permittees discharging to Segment B tributaries, if using LRS	September 23, 2023
Achieve final water quality-based effluent limitations or demonstrate that non-compliance is only due to upstream contributions and submit report to Regional Water Board	*MS4 Permittees discharging to Segment B tributaries, if using alternative compliance plan*	*September 23, 2023*
Second phase, if necessary – Segment B Tributaries (Rio Hondo and Arroyo Seco) for LRS approach only		
Submit a new LRS	MS4 Permittees discharging to Segment B tributaries	September 23, 2024
Complete implementation of LRS	MS4 Permittees discharging to Segment B tributaries, if using LRS	March 23, 2028

Implementation Action	Responsible Parties	Deadline
Achieve final water quality-based effluent limitations Segment B tributaries or demonstrate that non-compliance is due to upstream contributions and submit report to Regional Water Board	MS4 Permittees discharging to Segment B tributaries, if using LRS	March 23, 2030
SEGMENT A (lower Reach 2 and Reach 1 – Rosecrans Avenue to Willow Street)		
First phase – Segment A		
Submit a Load Reduction Strategy (LRS) for Segment A (or submit an alternative compliance plan)	MS4 Permittees discharging to Segment A	September 23, 2016
Complete implementation of LRS	MS4 Permittees discharging to Segment A, if using LRS	March 23, 2021
Achieve interim (or final) water quality-based effluent limitations and submit report to Regional Water Board	MS4 Permittees discharging to Segment A, if using LRS	March 23, 2024
Achieve final water quality-based effluent limitations or demonstrate that non-compliance is due to upstream contributions and submit report to Regional Water Board	*MS4 Permittees discharging to Segment A, if using alternative compliance plan*	*March 23, 2024*
Second phase, if necessary – Segment A for LRS approach only		
Submit a new LRS	MS4 Permittees discharging to Segment A	March 23, 2025
Complete implementation of LRS	MS4 Permittees discharging to Segment A, if using LRS	September 23, 2029
Achieve final water quality-based effluent limitations in Segment A or demonstrate that non-compliance is due to upstream contributions and submit report to Regional Water Board	MS4 Permittees discharging to Segment A, if using LRS	September 23, 2031
SEGMENT A TRIBUTARY (Compton Creek)		
First phase – Segment A Tributary		
Submit a Load Reduction Strategy (LRS) for Segment A tributary (or submit an alternative compliance plan)	MS4 Permittees discharging to Segment A tributary	March 23, 2018
Complete implementation of LRS	MS4 Permittees discharging to Segment A tributary if using LRS	September 23, 2022

Implementation Action	Responsible Parties	Deadline
Achieve interim (or final) water quality-based effluent limitations and submit report to Regional Water Board	MS4 Permittees discharging to Segment A tributary if using LRS	September 23, 2025
Achieve final water quality-based effluent limitations or demonstrate that non-compliance is due to upstream contributions and submit report to Regional Water Board	*MS4 Permittees discharging to Segment A tributary, if using alternative compliance plan*	*September 23, 2025*
Second phase, if necessary – Segment A Tributary for LRS approach only		
Submit a new LRS	MS4 Permittees discharging to Segment A tributary	September 23, 2026
Complete implementation of LRS	MS4 Permittees discharging to Segment A tributary, if using LRS	March 23, 2030
Achieve final water quality-based effluent limitations in Segment A tributary or demonstrate that non-compliance is due to upstream contributions and submit report to Regional Water Board	MS4 Permittees discharging to Segment A tributary, if using LRS	March 23, 2032
SEGMENT E (Reach 6 – LA River headwaters [confluence with Bell Creek and Calabasas Creek] to Balboa Boulevard)		
First phase – Segment E		
Submit a Load Reduction Strategy (LRS) for Segment E *(or submit an alternative compliance plan)*	MS4 Permittees discharging to Segment E	September 23, 2017
Complete implementation of LRS	MS4 Permittees discharging to Segment E, if using LRS	March 23, 2022
Achieve interim (or final) water quality-based effluent limitations and submit report to Regional Water Board	MS4 Permittees discharging to Segment E, if using LRS	March 23, 2025
Achieve final water quality-based effluent limitations or demonstrate that non-compliance is due to upstream contributions and submit report to Regional Water Board	*MS4 Permittees discharging to Segment E, if using alternative compliance plan*	*March 23, 2025*
Second phase, if necessary –Segment E for LRS approach only		
Submit a new LRS	MS4 Permittees discharging to Segment E	March 23, 2026
Complete implementation of LRS	MS4 Permittees discharging to Segment E, if using LRS	September 23, 2029

Implementation Action	Responsible Parties	Deadline
Achieve final Water quality-based effluent limitations in Segment E or demonstrate that non-compliance is due to upstream contributions and submit report to Regional Water Board	MS4 Permittees discharging to Segment E, if using LRS	September 23, 2031
SEGMENT E TRIBUTARIES (Dry Canyon Creek, McCoy Creek, Bell Creek, and Aliso Canyon Wash)		
First phase – Segment E Tributaries		
Submit a Load Reduction Strategy (LRS) for Segment E tributaries (or submit an alternative compliance plan)	MS4 Permittees discharging to Segment E tributaries	September 23, 2021
Complete implementation of LRS	MS4 Permittees discharging to Segment E tributaries if using LRS	March 23, 2026
Achieve interim (or final) water quality-based effluent limitations and submit report to Regional Water Board	MS4 Permittees discharging to Segment E tributaries, if using LRS	March 23, 2029
Achieve final water quality-based effluent limitations or demonstrate that non-compliance is due to upstream contributions and submit report to Regional Water Board	*MS4 Permittees discharging to Segment E tributaries, if using alternative compliance plan*	*March 23, 2029*
Second phase, if necessary – Segment E Tributaries for LRS approach only		
Submit a new LRS	MS4 Permittees discharging to Segment E tributaries	March 23, 2030
Complete implementation of LRS	MS4 Permittees discharging to Segment E tributaries, if using LRS	September 23, 2033
Achieve final water quality-based effluent limitations in Segment E tributaries or demonstrate that non-compliance is due to upstream contributions and submit report to Regional Water Board	MS4 Permittees discharging to Segment E tributaries, if using LRS	September 23, 2035
SEGMENT C (lower Reach 4 and Reach 3 – Tujunga Avenue to Figueroa Street) **SEGMENT C TRIBUTARIES (Tujunga Wash, Burbank Western Channel, and Verdugo Wash)** **SEGMENT D (Reach 5 and upper Reach 4 – Balboa Boulevard to Tujunga Avenue)** **SEGMENT D TRIBUTARIES (Bull Creek)**		
First phase – Segment C, Segment C Tributaries, Segment D, Segment D tributaries		
Submit a Load Reduction Strategies (LRS) for Segment C, Segment C tributaries, Segment D, Segment D tributaries *(or submit an alternative compliance plan)*	MS4 Permittees discharging to Segment C, Segment C tributaries, Segment D, Segment D tributaries	March 23, 2023

Implementation Action	Responsible Parties	Deadline
Complete implementation of LRS	MS4 Permittees discharging to Segment C, Segment C tributaries, Segment D, Segment D tributaries, if using LRS	September 23, 2027
Achieve interim (or final) water quality-based effluent limitations and submit report to Regional Water Board	MS4 Permittees discharging to Segment C, Segment C tributaries, Segment D, Segment D tributaries, if using LRS	September 23, 2030
Achieve final water quality-based effluent limitations or demonstrate that non-compliance is due to upstream contributions and submit report to Regional Water Board	*MS4 Permittees discharging to Segment C, Segment C tributaries, Segment D, Segment D tributaries, if using alternative compliance plan*	*September 23, 2030*
Second phase, if necessary - Segment C, Segment C Tributaries, Segment D, Segment D Tributaries for LRS approach only		
Submit a new LRS	MS4 Permittees discharging to Segment C, Segment C tributaries, Segment D, Segment D tributaries	September 23, 2031
Complete implementation of LRS	MS4 Permittees discharging to Segment C, Segment C tributaries, Segment D, Segment D tributaries if using LRS	March 23, 2035
Achieve final water quality-based effluent limitations in Segment C, Segment C tributaries, Segment D, Segment D tributaries or demonstrate that non-compliance is due to upstream contributions and submit report to Regional Water Board	MS4 Permittees discharging to Segment C, Segment C tributaries, Segment D, Segment D tributaries if using LRS	March 23, 2037

5. Compliance

a. Permittees may demonstrate compliance with the final dry weather limitations by demonstrating that final receiving water limitations are met in the receiving waters or by demonstrating one of the following conditions at outfalls to the receiving waters:

i. Flow-weighted concentration of *E. coli* in MS4 discharges during dry weather is less than or equal to 235 MPN/100mL, based on a weighted-average using flow rates from all measured outfalls; or

ii. Zero discharge during dry weather.

b. In addition, individual Permittees or subgroups of Permittees may differentiate their dry weather discharges from other dischargers or upstream contributions by demonstrating one of the following conditions at outfalls to the receiving waters or at segment, tributary or jurisdictional boundaries:

i. The flow-weighted concentration of E. coli in a Permittee's individual discharge or in a group of Permittees' collective discharge during dry weather is less than or equal to 235 MPN/100mL, based on a weighted-average using flow rates from all measured outfalls; or

ii. Zero discharge from a Permittee's individual outfall(s) or from a group of Permittees' outfall(s) during dry weather; or

iii. Demonstration that the MS4 loading of E. coli to the segment or tributary during dry weather is less than or equal to the calculated loading rate that would not cause or contribute to exceedances based on the loading capacity representative of conditions in the River at the time of compliance.

c. The interim dry weather water quality-based effluent limitations are group-based, shared among all MS4 Permittees that drain to a segment or tributary. However, the interim dry weather water quality-based effluent limitations may be distributed based on proportional drainage area, upon approval of the Regional Water Board Executive Officer.

E. Legg Lake Trash TMDL

1. Permittees subject to the provisions below are identified in Attachment K, Table K-5.

2. Permittees shall comply with the final water quality-based effluent limitation of zero trash discharged to Legg Lake no later than March 6, 2016, and every year thereafter.

3. Permittees that choose to comply via a full capture compliance strategy must demonstrate a phased implementation of full capture devices attaining interim effluent limitations over the following 8-year period until the final effluent limitation of zero is attained:

Deadline	Effluent Limitation
	Drainage Area covered by Full Capture Systems (%)
March 6, 2008	0
March 6, 2012	20
March 6, 2013	40
March 6, 2014	60
March 6, 2015	80
March 6, 2016	100

Legg Lake Trash Effluent Limitations[15] (gallons of uncompressed trash per year)

Permittees	Baseline[16] (100%)	3/6/2012 (80%)	3/6/2013 (60%)	3/6/2014 (40%)	3/6/2015 (20%)	3/6/2016[17] (0%)
Los Angeles County	2400.03	1920.02	1440.02	960.01	480.01	0
Los Angeles County Flood Control District	24.05	19.24	14.43	9.62	4.81	0
City of El Monte	509.48	407.58	305.69	203.79	101.90	0
City of South El Monte	3896.76	3117.41	2338.06	1558.70	779.35	0

4. Permittees shall comply with the interim and final water quality-based effluent limitations for trash in E.2 and E.3 above per the provisions in Part VI.E.5.

5. If a Permittee opts to derive site specific trash generation rates through its Trash Monitoring and Reporting Plan (TMRP), the baseline limitation shall be calculated by multiplying the point source area(s) by the derived trash generation rate(s).

6. Permittees shall comply with the interim and final water quality-based effluent limitations for trash in E.2 and E.3 above per the provisions in Part VI.E.5.

F. Long Beach City Beaches and Los Angeles River Estuary Bacteria TMDL *(USEPA established)*

1. Permittees subject to the provisions below are identified in Attachment K, Table K-5.

2. Permittees shall comply with the following final WLAs for discharges to the Los Angeles River Estuary per the provisions in Part VI.E.3:

Constituent	WLA (MPN or cfu)	
	Daily Maximum	Geometric Mean
Total coliform*	10,000/100 mL	1,000/100 mL
Fecal coliform	400/100 mL	200/100 mL
Enterococcus	104/100 mL	35/100 mL

* Total coliform density shall not exceed a daily maximum of 1,000/100 mL, if the ratio of fecal-to-total coliform exceeds 0.1.

3. Receiving Water Limitations

   a. Permittees shall comply with the following grouped[18] final single sample bacteria WLAs for the Los Angeles River Estuary per the provisions in Part VI.E.3:

[15] Water quality-based effluent limitations are expressed as allowable trash discharge relative to baseline Waste Load Allocations.

[16] The Regional Water Board calculated the baseline water quality-based effluent limitations for the Permittees based on the estimated trash generation rate of 5334 gallons of uncompressed trash per square mile per year.

[17] Permittees shall achieve their final effluent limitation of zero trash discharged for the year and every year thereafter.

[18] The final receiving water limitations are group-based and shared among all MS4 Permittees located within the drainage area.

Time Period	Annual Allowable Exceedance Days of the Single Sample Objective (days)	
	Daily sampling	Weekly sampling
Summer Dry-Weather (April 1 to October 31)	0	0
Winter Dry-Weather (November 1 to March 31)	9	2
Wet Weather[19]	17	3

b. Permittees shall comply with the following geometric mean receiving water limitations for all monitoring stations in the Los Angeles River Estuary per the provisions in Part VI.E.3:

Constituent	Geometric Mean (MPN or cfu)
Total coliform	1,000/100 mL
Fecal coliform	200/100 mL
Enterococcus	35/100 mL

4. Compliance Determination

a. Permittees may demonstrate compliance with the final dry or weather WLAs by demonstrating that final WLAs expressed as allowable exceedance days are met in the receiving waters or by demonstrating one of the following conditions at outfalls to the receiving waters:

i. Flow-weighted concentration of bacterial indicators in MS4 discharges during dry or wet weather is less than or equal to the WLAs in part E.2 above, based on a weighted-average using flow rates from all measured outfalls; or

ii. Zero discharge during dry weather.

b. In addition, individual Permittees or subgroups of Permittees may differentiate their dry or wet weather discharges from other dischargers or upstream contributions by demonstrating one of the following conditions at outfalls to the receiving waters or at segment, tributary or jurisdictional boundaries:

i. The flow-weighted concentration of bacterial indicators in a Permittee's individual discharge or in a group of Permittees' collective discharge during dry or wet weather is less than or equal to the WLAs in part E.2 above, based on a weighted-average using flow rates from all measured outfalls; or

ii. Zero discharge from a Permittee's individual outfall(s) or from a group of Permittees' outfall(s) during dry weather.

G. Los Angeles Area Lakes TMDLs[20] *(USEPA established)*

1. Lake Calabasas Nutrient TMDL

[19] Wet weather is defined as days with 0.1 inch of rain or greater and the three days following the rain event.
[20] Los Angeles Area Lakes TMDL includes multiple watershed management areas.

a. Permittees subject to the provisions below are identified in Attachment K, Table K-5.

b. Permittees shall comply with the following WLAs per the provisions in Part VI.E.3.

c. Permittees shall comply with the following annual mass-based allocations based on current flow conditions:

Permittee	Total Phosphorus (lb-P/yr)	Total Nitrogen (lb-N/yr)
City of Calabasas	48.5	220

Measured at the point of discharge. The mass-based allocations are equivalent to existing concentrations of 0.066 mg/L total phosphorus as a summer average (May-September) and annual average, and 0.66 mg/L total nitrogen as a summer average (May-September) and annual average based on approved flow conditions.

d. The following concentration-based WLAs shall apply during both wet and dry weather if:

i. The Regional Water Board Executive Officer approves a request by the Permittee that the concentration-based WLAs apply, and the USEPA does not object to the Executive Officer's decision within 60 days of receiving notice.

ii. The Permittee shall submit a request to both the Regional Water Board and USEPA and shall include as part of the request a Lake Management Plan, describing actions that will be implemented to ensure that the applicable water quality objectives for ammonia, dissolved oxygen, and pH are achieved and the chlorophyll *a* target of 20 µg/L measured as a summer average (May-September) and as an annual average is met.

iii. If the applicable water quality objectives for ammonia, dissolved oxygen, pH are achieved, and the chlorophyll *a* target is met, then the total phosphorus and total nitrogen concentration-based WLAs shall be considered attained.

Permittee	Total Phosphorus (mg-P/L)	Total Nitrogen (mg-N/L)
City of Calabasas	0.1	1.0

Measured as in-lake concentration and applied as a summer average (May-September) and an annual average.

2. Echo Park Lake Nutrient TMDL

a. Permittees subject to the provisions below are identified in Attachment K, Table K-5.

b. Permittees shall comply with the following WLAs per the provisions in Part VI.E.3.

c. Permittees shall comply with the following annual mass-based allocations based on current flow conditions:

Subwatershed	Permittee	Total Phosphorus (lb-P/yr)	Total Nitrogen (lb-N/yr)
Northern	City of Los Angeles	24.7	156
Southern	City of Los Angeles	7.129	49.69

Measured at the point of discharge using a three-year average. The mass-based allocations are equivalent to existing concentrations of 0.12 mg/L total phosphorus as a summer average (May-September) and annual average, and 1.2 mg/L total nitrogen as a summer average (May-September) and annual average based on approved flow conditions.

d. In assessing compliance with WLAs, Permittees assigned both northern and southern subwatershed allocations may have their allocations combined.

e. If the applicable water quality objectives for ammonia, dissolved oxygen, and pH are achieved, and the chlorophyll *a* target of 20 µg/L as a summer average (May-September) and as an annual average is met, in the lake then the total phosphorus and total nitrogen concentration-based WLAs shall be considered attained.

3. Echo Park Lake PCBs TMDL

a. Permittees subject to the provisions below are identified in Attachment K, Table K-5.

b. Permittees shall comply with the following WLAs per the provisions in Part VI.E.3.

c. Permittees shall comply with the following WLAs:

Subwatershed	Permittee	Total PCBs associated with Suspended Sediment (µg/kg dry weight)	Total PCBs in the Water Column (ng/L)
Northern	City of Los Angeles	1.77	0.17
Southern	City of Los Angeles	1.77	0.17

Measured at the point of discharge. Applied as an annual average.

d. Permittees may comply with the following alternative WLAs upon approval by the Regional Water Board Executive Officer based upon documentation that the fish tissue target of 3.6 ppb wet weight has been met for the preceding three or more years. A demonstration that the fish tissue target has been met in any given year must at a minimum include a composite sample of skin of fillets from at least five common carp each measuring at least 350 mm in length. Documentation shall be submitted to the Regional Water Board and USEPA. Compliance may be demonstrated based on the alternative WLAs upon approval by the Executive Officer, so long as USEPA does not object within 60 days of receiving notice.

Subwatershed	Permittee	Total PCBs associated with Suspended Sediment (µg/kg dry weight)*,**	Total PCBs in the Water Column (ng/L)*,***
Northern	City of Los Angeles	59.8	0.17
Southern	City of Los Angeles	59.8	0.17

*Measured at the point of discharge.
**Applied as a three-year average.
***Applied as an annual average.

4. Echo Park Lake Chlordane TMDL

a. Permittees subject to the provisions below are identified in Attachment K, Table K-5.

b. Permittees shall comply with the following WLAs per the provisions in Part VI.E.3.

c. Permittees shall comply with the following WLAs:

Subwatershed	Permittee	Total Chlordane associated with Suspended Sediment (µg/kg dry weight)	Total Chlordane in the Water Column (ng/L)
Northern	City of Los Angeles	2.10	0.59
Southern	City of Los Angeles	2.10	0.59

Measured at the point of discharge. Applied as an annual average.

d. Permittees may comply with the following alternative WLAs upon approval by the Regional Water Board Executive Officer based upon documentation that the fish tissue target of 5.6 ppb wet weight has been met for the preceding three or more years. A demonstration that the fish tissue target has been met in any given year must at a minimum include a composite sample of skin of fillets from at least five common carp each measuring at least 350 mm in length. Documentation shall be submitted to the Regional Water Board and USEPA. Compliance may be demonstrated based on the alternative WLAs upon approval by the Executive Officer, so long as USEPA does not object within 60 days of receiving notice.

Subwatershed	Permittee	Total Chlordane associated with Suspended Sediment (µg/kg dry weight)*,**	Total Chlordane in the Water Column (ng/L)*,***
Northern	City of Los Angeles	3.24	0.59
Southern	City of Los Angeles	3.24	0.59

*Measured at the point of discharge.
**Applied as a three-year average.
***Applied as an annual average.

5. Echo Park Lake Dieldrin TMDL

a. Permittees subject to the provisions below are identified in Attachment K, Table K-5.

b. Permittees shall comply with the following WLAs per the provisions in Part VI.E.3.

c. Permittees shall comply with the following WLAs:

Subwatershed	Permittee	Dieldrin associated with Suspended Sediment (µg/kg dry weight)	Dieldrin in the Water Column (ng/L)
Northern	City of Los Angeles	0.80	0.14
Southern	City of Los Angeles	0.80	0.14

Measured at the point of discharge. Applied as an annual average.

d. Permittees may comply with the following alternative WLAs upon approval by the Regional Water Board Executive Officer based upon documentation that the fish tissue target of 0.46 ppb wet weight has been met for the preceding three or more years. A demonstration that the fish tissue target has been met in any given year must at a minimum include a composite sample of skin of fillets from at least five common carp each measuring at least 350 mm in length. Documentation shall be submitted to the Regional Water Board and USEPA. Compliance may be demonstrated based on the alternative WLAs upon approval by the Executive Officer, so long as USEPA does not object within 60 days of receiving notice:

Subwatershed	Permittee	Dieldrin associated with Suspended Sediment (µg/kg dry weight)*,**	Dieldrin in the Water Column (ng/L)*,***
Northern	City of Los Angeles	1.90	0.14
Southern	City of Los Angeles	1.90	0.14

*Measured at the point of discharge.
**Applied as a three-year average.
***Applied as an annual average.

6. Echo Park Lake Trash TMDL

a. Permittees subject to the provisions below are identified in Attachment K, Table K-5.

b. Permittees shall comply with the following WLAs per the provisions in Parts VI.E.3 and VI.E.5.

c. Permittees shall comply with the following WLA:

Permittee	Trash (Gal/year)
City of Los Angeles	0

7. Legg Lake System Nutrient TMDL

a. Permittees subject to the provisions below are identified in Attachment K, Table K-5.

b. Permittees shall comply with the following WLAs per the provisions in Part VI.E.3.

c. Permittees shall comply with the following annual mass-based allocations based on current flow conditions:

Subwatershed	Permittee	Flow (ac-ft/yr)	Total Phosphorus (lb-P/yr)	Total Nitrogen (lb-N/yr)
Northwestern	County of Los Angeles	33.5	53.6	148.7
Northwestern	South El Monte	308	526.3	1,500.6
Northeastern	El Monte	122	226.6	590.3
Northeastern	County of Los Angeles	8.18	12.8	39.2
Northeastern	South El Monte	287	498.7	1,394.8

Measured at the point of discharge. The mass-based allocations are equivalent to existing concentrations of 0.065 mg/L total phosphorus as a summer average (May-September) and annual average, and 0.65 mg/L total nitrogen as a summer average (May-September) and annual average based on approved flow conditions.

d. The following concentration-based WLAs shall apply during both wet and dry weather if:

i. The Regional Water Board Executive Officer approves a request by a Permittee that the concentration-based WLAs apply, and the USEPA does not object to the Executive Officer's decision within 60 days of receiving notice.

ii. Permittees shall submit a request to both the Regional Water Board and USEPA and shall include as part of the request a Lake Management Plan, describing actions that will be implemented to ensure that the applicable water quality objectives for ammonia, dissolved oxygen, and pH are achieved, and the chlorophyll *a* target of 20 **µ**g/L as a summer average (May-September) and an annual average is met, in the lake.

iii. If the applicable water quality objectives for ammonia, dissolved oxygen, and pH are achieved, and the chlorophyll *a* target is met, in the lake then the total phosphorus and total nitrogen concentration-based WLAs shall be considered attained.

Subwatershed	Permittee	Total Phosphorus (mg-P/L)	Total Nitrogen (mg-N/L)
Northwestern	County of Los Angeles	0.1	1.0
Northwestern	South El Monte	0.1	1.0
Northeastern	El Monte	0.1	1.0
Northeastern	County of Los Angeles	0.1	1.0
Northeastern	South El Monte	0.1	1.0

Measured as an in-lake concentration. Applied as a summer average (May-September) and an annual average.

8. Peck Road Park Lake Nutrient TMDL

a. Permittees subject to the provisions below are identified in Attachment K, Table K-5.

b. Permittees shall comply with the following WLAs per the provisions in Part VI.E.3.

c. Permittees shall comply with the following annual mass-based allocations based on current flow conditions:

Subwatershed	Permittee	Total Phosphorus (lb-P/yr)	Total Nitrogen (lb-N/yr)
Eastern	Arcadia	383	2,320
Eastern	Bradbury	497	3,223
Eastern	Duarte	1,540	9,616
Eastern	Irwindale	496	3,487
Eastern	County of Los Angles	924	5,532
Eastern	Monrovia	6,243	38,736
Near Lake	Arcadia	158	1,115
Near Lake	El Monte	96.2	602
Near Lake	Irwindale	28.2	207
Near Lake	County of Los Angeles	129	773
Near Lake	Monrovia	60.4	415
Western	Arcadia	2,840	16,334
Western	County of Los Angeles	467	2,818
Western	Monrovia	425	2,678
Western	Sierra Madre	695	4,254

Measured at the point of discharge using a three-year average. The mass-based allocations are equivalent to existing concentrations of 0.076 mg/L total phosphorus as a summer average (May-September) and annual average, and 0.76 mg/L total nitrogen as a summer average (May-September) and annual average based on approved flow conditions.

d. If the applicable water quality objectives for ammonia, dissolved oxygen, and pH are achieved, and the chlorophyll *a* target of 20 **µ**g/L as a summer average (May-September) and as an annual average is met, in the lake then the total phosphorus and total nitrogen concentration-based WLAs shall be considered attained.

9. Peck Road Park Lake PCBs TMDL

a. Permittees subject to the provisions below are identified in Attachment K, Table K-5.

b. Permittees shall comply with the following WLAs per the provisions in Part VI.E.3.

c. Permittees shall comply with the following WLAs:

Subwatershed	Permittee	Total PCBs associated with Suspended Sediment (µg/kg dry weight)	Total PCBs in the Water Column (ng/L)
Eastern	Arcadia	1.29	0.17
Eastern	Bradbury	1.29	0.17
Eastern	Duarte	1.29	0.17
Eastern	Irwindale	1.29	0.17
Eastern	County of	1.29	0.17

Subwatershed	Permittee	Total PCBs associated with Suspended Sediment (µg/kg dry weight)	Total PCBs in the Water Column (ng/L)
	Los Angles		
Eastern	Monrovia	1.29	0.17
Near Lake	Arcadia	1.29	0.17
Near Lake	El Monte	1.29	0.17
Near Lake	Irwindale	1.29	0.17
Near Lake	County of Los Angeles	1.29	0.17
Near Lake	Monrovia	1.29	0.17
Western	Arcadia	1.29	0.17
Western	County of Los Angeles	1.29	0.17
Western	Monrovia	1.29	0.17
Western	Sierra Madre	1.29	0.17

Measured at the point of discharge. Applied as an annual average.

d. Permittees may comply with the following alternative WLAs upon approval by the Regional Water Board Executive Officer based upon documentation that the fish tissue target of 3.6 ppb wet weight has been met for the preceding three or more years. A demonstration that the fish tissue target has been met in any given year must at a minimum include a composite sample of skin of fillets from at least five largemouth bass each measuring at least 350 mm in length. Documentation shall be submitted to the Regional Water Board and USEPA. Compliance may be demonstrated based on the alternative WLAs upon approval by the Executive Officer, so long as USEPA does not object within 60 days of receiving notice.

Subwatershed	Permittee	Total PCBs associated with Suspended Sediment (µg/kg dry weight)*,**	Total PCBs in the Water Column (ng/L)*,***
Eastern	Arcadia	59.8	0.17
Eastern	Bradbury	59.8	0.17
Eastern	Duarte	59.8	0.17
Eastern	Irwindale	59.8	0.17
Eastern	County of Los Angles	59.8	0.17
Eastern	Monrovia	59.8	0.17
Near Lake	Arcadia	59.8	0.17
Near Lake	El Monte	59.8	0.17
Near Lake	Irwindale	59.8	0.17
Near Lake	County of Los Angeles	59.8	0.17
Near Lake	Monrovia	59.8	0.17
Western	Arcadia	59.8	0.17
Western	County of Los Angeles	59.8	0.17
Western	Monrovia	59.8	0.17
Western	Sierra Madre	59.8	0.17

*Measured at the point of discharge.
**Applied as a three-year average.
***Applied as an annual average.

10. Peck Road Park Lake Chlordane TMDL

a. Permittees subject to the provisions below are identified in Attachment K, Table K-5.

b. Permittees shall comply with the following WLAs per the provisions in Part VI.E.3.

c. Permittees shall comply with the following WLAs:

Subwatershed	Permittee	Total Chlordane associated with Suspended Sediment (µg/kg dry weight)	Total Chlordane in the Water Column (ng/L)
Eastern	Arcadia	1.73	0.59
Eastern	Bradbury	1.73	0.59
Eastern	Duarte	1.73	0.59
Eastern	Irwindale	1.73	0.59
Eastern	County of Los Angles	1.73	0.59
Eastern	Monrovia	1.73	0.59
Near Lake	Arcadia	1.73	0.59
Near Lake	El Monte	1.73	0.59
Near Lake	Irwindale	1.73	0.59
Near Lake	County of Los Angeles	1.73	0.59
Near Lake	Monrovia	1.73	0.59
Western	Arcadia	1.73	0.59
Western	County of Los Angeles	1.73	0.59
Western	Monrovia	1.73	0.59
Western	Sierra Madre	1.73	0.59

Measured at the point of discharge. Applied as an annual average.

d. Permittees may comply with the following alternative WLAs upon approval by the Regional Water Board Executive Officer based upon documentation that the fish tissue target of 5.6 ppb wet weight has been met for the preceding three or more years. A demonstration that the fish tissue target has been met in any given year must at a minimum include a composite sample of skin of fillets from at least five largemouth bass each measuring at least 350 mm in length. Documentation shall be submitted to the Regional Water Board and USEPA. Compliance may be demonstrated based on the alternative WLAs upon approval by the Executive Officer, so long as USEPA does not object within 60 days of receiving notice:

Subwatershed	Permittee	Total Chlordane associated with Suspended Sediment (µg/kg dry weight)[*,**]	Total Chlordane in the Water Column (ng/L)[*,***]
Eastern	Arcadia	3.24	0.59
Eastern	Bradbury	3.24	0.59
Eastern	Duarte	3.24	0.59
Eastern	Irwindale	3.24	0.59
Eastern	County of Los Angles	3.24	0.59
Eastern	Monrovia	3.24	0.59
Near Lake	Arcadia	3.24	0.59

Subwatershed	Permittee	Total Chlordane associated with Suspended Sediment (µg/kg dry weight)*,**	Total Chlordane in the Water Column (ng/L)*,***
Near Lake	El Monte	3.24	0.59
Near Lake	Irwindale	3.24	0.59
Near Lake	County of Los Angeles	3.24	0.59
Near Lake	Monrovia	3.24	0.59
Western	Arcadia	3.24	0.59
Western	County of Los Angeles	3.24	0.59
Western	Monrovia	3.24	0.59
Western	Sierra Madre	3.24	0.59

*Measured at the point of discharge.
**Applied as a three-year average.
***Applied as an annual average.

11. Peck Road Park DDT TMDL

a. Permittees subject to the provisions below are identified in Attachment K, Table K-5.

b. Permittees shall comply with the following WLAs per the provisions in Part VI.E.3.

c. Permittees shall comply with the following WLAs:

Subwatershed	Permittee	Total DDT associated with Suspended Sediment (µg/kg dry weight)	4-4' DDT in the Water Column (ng/L)
Eastern	Arcadia	5.28	0.59
Eastern	Bradbury	5.28	0.59
Eastern	Duarte	5.28	0.59
Eastern	Irwindale	5.28	0.59
Eastern	County of Los Angles	5.28	0.59
Eastern	Monrovia	5.28	0.59
Near Lake	Arcadia	5.28	0.59
Near Lake	El Monte	5.28	0.59
Near Lake	Irwindale	5.28	0.59
Near Lake	County of Los Angeles	5.28	0.59
Near Lake	Monrovia	5.28	0.59
Western	Arcadia	5.28	0.59
Western	County of Los Angeles	5.28	0.59
Western	Monrovia	5.28	0.59
Western	Sierra Madre	5.28	0.59

Measured at the point of discharge. Applied as an annual average.

12. Peck Road Park Lake Dieldrin TMDL

a. Permittees subject to the provisions below are identified in Attachment K, Table K-5.

b. Permittees shall comply with the following WLAs per the provisions in Part VI.E.3.

c. Permittees shall comply with the following WLAs:

Subwatershed	Permittee	Dieldrin associated with Suspended Sediment (µg/kg dry weight)	Dieldrin in the Water Column (ng/L)
Eastern	Arcadia	0.43	0.14
Eastern	Bradbury	0.43	0.14
Eastern	Duarte	0.43	0.14
Eastern	Irwindale	0.43	0.14
Eastern	County of Los Angles	0.43	0.14
Eastern	Monrovia	0.43	0.14
Near Lake	Arcadia	0.43	0.14
Near Lake	El Monte	0.43	0.14
Near Lake	Irwindale	0.43	0.14
Near Lake	County of Los Angeles	0.43	0.14
Near Lake	Monrovia	0.43	0.14
Western	Arcadia	0.43	0.14
Western	County of Los Angeles	0.43	0.14
Western	Monrovia	0.43	0.14
Western	Sierra Madre	0.43	0.14

Measured at the point of discharge. Applied as an annual average.

d. Permittees may comply with the following alternative WLAs upon approval by the Regional Water Board Executive Officer based upon documentation that the fish tissue target of 0.46 ppb wet weight has been met for the preceding three or more years. A demonstration that the fish tissue target has been met in any given year must at a minimum include a composite sample of skin of fillets from at least five largemouth bass each measuring at least 350 mm in length. Documentation shall be submitted to the Regional Water Board and USEPA. Compliance may be demonstrated based on the alternative WLAs upon approval by the Executive Officer, so long as USEPA does not object within 60 days of receiving notice:

Subwatershed	Permittee	Dieldrin associated with Suspended Sediment (µg/kg dry weight)[*,**]	Dieldrin in the Water Column (ng/L)[*,***]
Eastern	Arcadia	1.90	0.14
Eastern	Bradbury	1.90	0.14
Eastern	Duarte	1.90	0.14
Eastern	Irwindale	1.90	0.14
Eastern	County of Los Angles	1.90	0.14
Eastern	Monrovia	1.90	0.14
Near Lake	Arcadia	1.90	0.14
Near Lake	El Monte	1.90	0.14
Near Lake	Irwindale	1.90	0.14
Near Lake	County of	1.90	0.14

Subwatershed	Permittee	Dieldrin associated with Suspended Sediment (µg/kg dry weight)*,**	Dieldrin in the Water Column (ng/L)*,***
	Los Angeles		
Near Lake	Monrovia	1.90	0.14
Western	Arcadia	1.90	0.14
Western	County of Los Angeles	1.90	0.14
Western	Monrovia	1.90	0.14
Western	Sierra Madre	1.90	0.14

*Measured at the point of discharge.
**Applied as a three-year average.
***Applied as an annual average.

13. Peck Road Park Lake Trash TMDL

a. Permittees subject to the provisions below are identified in Attachment K, Table K-5.

b. Permittees shall comply with the following WLAs per the provisions in Parts VI.E.3 and VI.E.5.

c. Permittees shall comply with the following WLA:

Permittee	Trash (gal/year)
Arcadia	0
Bradbury	0
Duarte	0
El Monte	0
Irwindale	0
County of Los Angeles	0
Monrovia	0
Sierra Madre	0

ATTACHMENT P. TMDLs IN SAN GABRIEL RIVER WATERSHED MANAGEMENT AREA

A. San Gabriel River Metals and Impaired Tributaries Metals and Selenium TMDL *(USEPA established)*

1. Permittees subject to the provisions below are identified in Attachment K, Table K-6.

2. Permittees shall comply with the following grouped[1] wet weather[2] WLAs, expressed as total recoverable metals discharged to all upstream reaches and tributaries of the San Gabriel River Reach 2 and Coyote Creek per the provisions in Part VI.E.3:

Water Body	WLA Daily Maximum (kg/day)		
	Copper	Lead	Zinc
San Gabriel Reach 2	---	81.34 µg/L x daily storm volume (L)	---
Coyote Creek	24.71 µg/L x daily storm volume (L)	96.99 µg/L x daily storm volume (L)	144.57 µg/L x daily storm volume (L)

3. Permittees shall comply with the following grouped[1] dry weather WLAs, expressed as total recoverable metals discharged to San Gabriel River Reach 1, Coyote Creek, San Gabriel River Estuary, and San Jose Creek Reach 1 and Reach 2 per the provisions in Part VI.E.3:

Water Body	WLA Daily Maximum	
	Copper	Selenium
San Gabriel Reach 1	18 µg/L	---
Coyote Creek	0.941 kg/day*	---
San Gabriel River Estuary	3.7 µg/L	---
San Jose Creek Reach 1 and 2	---	5 µg/L

*Calculated based upon the median flow at LACDPW Station F354-R of 19 cfs multiplied by the numeric target of 20 µg/L, minus direct air deposition of 0.002 kg/d.

4. Permittees may convert the grouped mass-based WLAs into individual WLAs based on the percentage of the watershed and land uses within the Permittee's jurisdiction, upon approval of the Regional Water Board Executive Officer.

B. Los Angeles Area Lakes TMDLs[3] *(USEPA established)*

1. Puddingstone Reservoir Nutrient TMDL

a. Permittees subject to the provisions below are identified in Attachment K, Table K-6.

b. Permittees shall comply with the following WLAs per the provisions in Part VI.E.3.

[1] The wet weather and dry weather water WLAs are group-based and shared among all MS4 Permittees, which includes LA MS4 Permittees, the City of Long Beach, and Orange County MS4 Permittees located within the drainage area and Caltrans.

[2] In San Gabriel River Reach 2, wet weather TMDLs apply when the maximum daily flow of the river is equal to or greater than 260 cfs as measured at USGS station 11085000, located at the bottom of Reach 3 just above the Whittier Narrows Dam. In Coyote Creek, wet weather TMDLs apply when the maximum daily flow in the creek is equal to or greater than 156 cfs as measured at LACDPW flow gauge station F354-R, located at the bottom of the creek, just above the Long Beach WRP.

[3] Los Angeles Area Lakes TMDL includes multiple watershed management areas.

c. Permittees shall comply with the following annual mass-based allocations based on current flow conditions:

Subwatershed	Permittee	Total Phosphorus (lb-P/yr)	Total Nitrogen (lb-N/yr)
Northern	Claremont	169	829
Northern	County of Los Angeles	741	3,390
Northern	La Verne	2,772	11,766
Northern	Pomona	6.30	28.3
Northern	San Dimas	31.1	137

Measured at the point of discharge. The mass-based allocations are equivalent to existing concentrations of 0.071 mg/L total phosphorus as a summer average (May-September) and annual average, and 0.71 mg/L total nitrogen as a summer average (May-September) and annual average based on approved flow conditions.

d. The following concentration-based WLAs shall apply during both wet and dry weather if:

i. The Regional Water Board Executive Officer approves a request by a Permittee that the concentration-based WLAs apply, and the USEPA does not object to the Executive Officer's decision within 60 days of receiving notice.

ii. Permittees shall submit a request to both the Regional Water Board and USEPA and shall include as part of the request a Lake Management Plan, describing actions that will be implemented to ensure that the applicable water quality objectives for ammonia, dissolved oxygen, and pH are achieved and the chlorophyll *a* target of 20 µg/L as a summer average (May-September) and an annual average is met, in the lake.

iii. If the applicable water quality objectives for ammonia, dissolved oxygen, and pH are achieved, and the chlorophyll *a* target is met, in the lake then the total phosphorus and total nitrogen concentration-based WLAs shall be considered attained.

Subwatershed	Permittee	Total Phosphorus (mg-P/L)	Total Nitrogen (mg-N/L)
Northern	Claremont	0.1	1.0
Northern	County of Los Angeles	0.1	1.0
Northern	La Verne	0.1	1.0
Northern	Pomona	0.1	1.0
Northern	San Dimas	0.1	1.0

Measured as an in-lake concentration. Applied as a summer average (May-September) and an annual average.

2. Puddingstone Reservoir Mercury TMDL

a. Permittees subject to the provisions below are identified in Attachment K, Table K-6.

b. Permittees shall comply with the following WLAs per the provisions in Part VI.E.3.

c. Permittees shall comply with the following WLAs during both wet and dry weather:

Subwatershed	Permittee	Total Mercury (g-Hg/yr)
Northern	Claremont	0.674
Northern	County of Los Angeles	2.79
Northern	La Verne	10.6
Northern	Pomona	0.026
Northern	San Dimas	0.109

Measured at the point of discharge.

3. Puddingstone Reservoir PCBs TMDL

a. Permittees subject to the provisions below are identified in Attachment K, Table K-6.

b. Permittees shall comply with the following WLAs per the provisions in Part VI.E.3.

c. Permittees shall comply with the following WLAs:

Subwatershed	Permittee	Total PCBs associated with Suspended Sediment (µg/kg dry weight)	Total PCBs in the Water Column (ng/L)
Northern	Claremont	0.59	0.17
Northern	County of Los Angeles	0.59	0.17
Northern	La Verne	0.59	0.17
Northern	Pomona	0.59	0.17
Northern	San Dimas	0.59	0.17

Measured at the point of discharge. Applied as an annual average.

d. Permittees may comply with the following alternative WLAs upon approval by the Regional Water Board Executive Officer based upon documentation that the fish tissue target of 3.6 ppb wet weight has been met for the preceding three or more years. A demonstration that the fish tissue target has been met in any given year must at a minimum include a composite sample of skin of fillets from at least five common carp each measuring at least 350 mm in length. Documentation shall be submitted to the Regional Water Board and USEPA. Compliance may be demonstrated based on the alternative WLAs upon approval by the Executive Officer, so long as USEPA does not object within 60 days of receiving notice.

Subwatershed	Permittee	Total PCBs associated with Suspended Sediment (µg/kg dry weight)*,**	Total PCBs in the Water Column (ng/L)*,***
Northern	Claremont	59.8	0.17
Northern	County of Los Angeles	59.8	0.17
Northern	La Verne	59.8	0.17
Northern	Pomona	59.8	0.17
Northern	San Dimas	59.8	0.17

*Measured at the point of discharge.
**Applied as a three-year average.
***Applied as an annual average.

4. Puddingstone Reservoir Chlordane TMDL

a. Permittees subject to the provisions below are identified in Attachment K, Table K-6.

b. Permittees shall comply with the following WLAs per the provisions in Part VI.E.3.

c. Permittees shall comply with the following WLAs:

Subwatershed	Permittee	Total Chlordane associated with Suspended Sediment (µg/kg dry weight)	Total Chlordane in the Water Column (ng/L)
Northern	Claremont	0.75	0.57
Northern	County of Los Angeles	0.75	0.57
Northern	La Verne	0.75	0.57
Northern	Pomona	0.75	0.57
Northern	San Dimas	0.75	0.57

Measured at the point of discharge. Applied as an annual average.

d. Permittees may comply with the following alternative WLAs upon approval by the Regional Water Board Executive Officer based upon documentation that the fish tissue target of 5.6 ppb wet weight has been met for the preceding three or more years. A demonstration that the fish tissue target has been met in any given year must at a minimum include a composite sample of skin of fillets from at least five common carp each measuring at least 350 mm in length. Documentation shall be submitted to the Regional Water Board and USEPA. Compliance may be demonstrated based on the alternative WLAs upon approval by the Executive Officer, so long as USEPA does not object within 60 days of receiving notice.

Subwatershed	Permittee	Total Chlordane associated with Suspended Sediment (µg/kg dry weight)*,**	Total Chlordane in the Water Column (ng/L)*,***
Northern	Claremont	3.24	0.57
Northern	County of Los Angeles	3.24	0.57
Northern	La Verne	3.24	0.57
Northern	Pomona	3.24	0.57
Northern	San Dimas	3.24	0.57

*Measured at the point of discharge.
**Applied as a three-year average.
***Applied as an annual average.

5. Puddingstone Reservoir Dieldrin TMDL

a. Permittees subject to the provisions below are identified in Attachment K, Table K-6.

b. Permittees shall comply with the following WLAs per the provisions in Part VI.E.3.

c. Permittees shall comply with the following WLAs:

Subwatershed	Permittee	Dieldrin associated with Suspended Sediment (µg/kg dry weight)	Dieldrin in the Water Column (ng/L)
Northern	Claremont	0.22	0.14
Northern	County of Los Angeles	0.22	0.14
Northern	La Verne	0.22	0.14
Northern	Pomona	0.22	0.14
Northern	San Dimas	0.22	0.14

Measured at the point of discharge. Applied as an annual average.

d. Permittees may comply with the following alternative WLAs upon approval by the Regional Water Board Executive Officer based upon documentation that the fish tissue target of 0.46 ppb wet weight has been met for the preceding three or more years. A demonstration that the fish tissue target has been met in any given year must at a minimum include a composite sample of skin of fillets from at least five common carp each measuring at least 350 mm in length. Documentation shall be submitted to the Regional Water Board and USEPA. Compliance may be demonstrated based on the alternative WLAs upon approval by the Executive Officer, so long as USEPA does not object within 60 days of receiving notice.

Subwatershed	Permittee	Dieldrin associated with Suspended Sediment (µg/kg dry weight)*,**	Dieldrin in the Water Column (ng/L)*,***
Northern	Claremont	1.90	0.14
Northern	County of Los Angeles	1.90	0.14
Northern	La Verne	1.90	0.14
Northern	Pomona	1.90	0.14
Northern	San Dimas	1.90	0.14

*Measured at the point of discharge.
**Applied as a three-year average.
***Applied as an annual average.

6. Puddingstone Reservoir DDT TMDL

a. Permittees subject to the provisions below are identified in Attachment K, Table K-6.

b. Permittees shall comply with the following WLAs per the provisions in Part VI.E.3.

c. Permittees shall comply with the following WLAs:

Subwatershed	Permittee	Total DDT associated with Suspended Sediment (µg/kg dry weight)	4-4' DDT in the Water Column (ng/L)
Northern	Claremont	3.94	0.59
Northern	County of Los Angeles	3.94	0.59
Northern	La Verne	3.94	0.59
Northern	Pomona	3.94	0.59
Northern	San Dimas	3.94	0.59

Measured at the point of discharge. Applied as an annual average.

d. Permittees may comply with the following alternative WLAs upon approval by the Regional Water Board Executive Officer based upon documentation that the fish tissue target of 21 ppb wet weight has been met for the preceding three or more years. A demonstration that the fish tissue target has been met in any given year must at a minimum include a composite sample of skin of fillets from at least five common carp each measuring at least 350 mm in length. Documentation shall be submitted to the Regional Water Board and USEPA. Compliance may be demonstrated based on the alternative WLAs upon approval by the Executive Officer, so long as USEPA does not object within 60 days of receiving notice.

Subwatershed	Permittee	Total DDT associated with Suspended Sediment (µg/kg dry weight)*,**	4-4' DDT in the Water Column (ng/L)*,***
Northern	Claremont	5.28	0.59
Northern	County of Los Angeles	5.28	0.59
Northern	La Verne	5.28	0.59
Northern	Pomona	5.28	0.59
Northern	San Dimas	5.28	0.59

*Measured at the point of discharge.
**Applied as a three-year average.
***Applied as an annual average.

ATTACHMENT Q. TMDLs IN LOS CERRITOS CHANNEL AND ALAMITOS BAY WATERSHED MANAGEMENT AREA

A. Los Cerritos Channel Metals TMDL *(USEPA established)*

1. Permittees subject to the provisions below are identified in Attachment K, Table K-7.

2. Permittees shall comply with the following dry weather[1] WLAs, expressed as total recoverable metals discharged to Los Cerritos Channel, per the provisions in Part VI.E.3:

Constituent	WLA Daily Maximum (g/day)
Copper	67.2

3. Permittees shall comply with the following wet weather[2] WLA, expressed as total recoverable metals discharged to Los Cerritos Channel, per the provisions in Part VI.E.3:

Constituent	WLA Daily Maximum (g/day)
Copper	4.709×10^{-6} x daily storm volume (L)
Lead	26.852×10^{-6} x daily storm volume (L)
Zinc	46.027×10^{-6} x daily storm volume (L)

B. Colorado Lagoon OC Pesticides, PCBs, Sediment Toxicity, PAHs, and Metals TMDL

1. Permittees subject to the provisions below are identified in Attachment K, Table K-7.

2. Permittees shall comply with the following interim water quality-based effluent limitations as of the effective date of this Order, for sediments within Colorado Lagoon:

Constituent	Interim Concentration-based Effluent Limitations Monthly Average (µg/dry kg)
Chlordane	129.65
Dieldrin	26.20
Lead	399,500
Zinc	565,000
PAHs	4,022
PCBs	89.90
DDT	149.80

[1] Dry weather is defined as any day when the maximum daily flow in Los Cerritos Channel is less than 23 cubic feet per second (cfs) measured at Stearns Street Monitoring Station.

[2] Wet weather is defined as any day when the maximum daily flow in Los Cerritos Channel is equal to or greater than 23 cfs measured at Stearns Street Monitoring Station.

3. Permittees shall comply with the following final water quality-based effluent limitations no later than July 28, 2018, for sediments within Colorado Lagoon:

Constituent	Final Concentration Based Effluent Limitations Monthly Average (µg/dry kg)
Chlordane	0.50
Dieldrin	0.02
Lead	46,700
Zinc	150,000
PAHs	4,022
PCBs	22.70
DDT	1.58

4. The mass-based water quality-based effluent limitations are shared by the MS4 Permittees, which includes the LACFCD, City of Long Beach and Caltrans. Permittees shall comply with the following grouped final water quality-based effluent limitations no later than July 28, 2018, expressed as an annual discharge of sediment to Colorado Lagoon:

Constituent	Annual Mass-based Effluent Limitations (mg/yr)				
	Project 452	Line I	Termino Ave	Line K	Line M
Chlordane	5.10	3.65	12.15	1.94	0.73
Dieldrin	0.20	0.15	0.49	0.08	0.03
Lead	476,646.68	340,455.99	1,134,867.12	181,573.76	68,116.09
Zinc	1,530,985.05	1,093,541.72	3,645,183.47	583,213.37	218,788.29
PAHs	41,050.81	29,321.50	97,739.52	15,637.89	5,866.44
PCBs	231.69	165.49	551.64	88.26	33.11
DDT	16.13	11.52	38.40	6.14	2.30

5. Compliance with the concentration-based water quality-based effluent limitations shall be determined by pollutant concentrations in the sediment in Colorado Lagoon at points in the West Arm, North Arm and Central Arm that represent the cumulative inputs from the MS4 drainage to the lagoon.

ATTACHMENT R. TMDLs IN THE MIDDLE SANTA ANA RIVER WATERSHED MANAGEMENT AREA (SANTA ANA REGION TMDL)

A. Middle Santa Ana River Watershed Bacterial Indicator TMDLs

1. Permittees subject to the provisions below are identified in Attachment K, Table K-8.

2. Permittees shall comply with the following final water quality-based effluent limitations for discharges to San Antonio Creek and Chino Creek during dry weather no later than December 31, 2015, and during wet weather no later than December 31, 2025:

a. Fecal coliform[1]: geometric mean less than 180 organisms/100 mL based on five or more samples during any 30-day period, and not more than 10% of the samples exceed 360 organisms/100 mL during any 30-day period.

b. *E. coli*: geometric mean less than 113 organisms/100 mL based on five or more samples during any 30-day period, and not more than 10% of the samples exceed 212 organisms/100 mL during any 30-day period.

3. Permittees shall comply with the following receiving water limitations for discharges to San Antonio Creek and Chino Creek during dry weather no later than December 31, 2015, and during wet weather no later than December 31, 2025:

a. Fecal coliform[2]: geometric mean less than 200 organisms/100 mL based on 5 samples during any 30-day period, and not more than 10% of the samples exceed 400 organisms/100 mL during any 30-day period.

b. *E. coli*: geometric mean less than 126 organisms/100 mL based on 5 samples during any 30-day period, and not more than 10% of the samples exceed 235 organisms/100 mL during any 30-day period.

B. Section A of this Attachment R, and Parts V and VI.C of this Order, shall not be applicable to discharges of bacteria through MS4s of the Permittees identified in Attachment K, Table K-8, to receiving waters within the Middle Santa Ana River Watershed that are addressed by the Middle Santa Ana River Watershed Bacterial Indication TMDLs, Resolution No. R8-2005-0001, established by the Regional Water Quality Control Board, Santa Ana Region (Santa Ana Regional Board), during the effective dates of any NPDES permit that is issued by the Santa Ana Regional Board:

1. Pursuant to a valid and enforceable designation agreement between this Regional Water Board and the Santa Ana Regional Board under Water Code section 13228, that is applicable to MS4 discharges by the Permittees identified in Attachment K, Table K-8; and

2. The designation agreement delegates the Santa Ana Regional Board as the regulator of MS4 discharges by the Permittees identified in Attachment K, Table K-8, to ensure compliance with the Middle Santa Ana River Watershed Bacterial Indicator

[1] The fecal coliform water quality-based effluent limitations become ineffective upon the replacement of the REC-1 fecal coliform water quality objectives with REC-1 *E. coli* water quality objectives in the Santa Ana Region Basin Plan.

[2] The fecal coliform receiving water limitations become ineffective upon the replacement of the REC-1 fecal coliform water quality objectives with REC-1 *E. coli* water quality objectives in the Santa Ana Region Basin Plan.

TMDLs, Resolution No. R8-2005-0001, in satisfaction of the requirements of 40 CFR section 122.44(d)(1)(vii)(B).

EXHIBIT B

STATE OF CALIFORNIA

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION

ORDER NO. 01-182
NPDES PERMIT NO. CAS004001
WASTE DISCHARGE REQUIREMENTS
FOR
MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES WITHIN THE COUNTY OF LOS ANGELES, AND THE INCORPORATED CITIES THEREIN, EXCEPT THE CITY OF LONG BEACH

December 13, 2001
(Amended on September 14, 2006 by Order R4-2006-0074; August 9, 2007 by Order R4-2007-0042; December 10, 2009 by Order R4-2009-0130; and October 19, 2010 and April 14, 2011 pursuant to the peremptory writ of mandate in L.A. Superior Court Case No. BS122724)

Table of Contents

A. Existing Permit 1
B. Nature of Discharges and Sources of Pollutant 1
C. Permit Background 5
D. Permit Coverage 6
E. Federal, State, and Regional Regulations 7
F. Implementation 20
G. Public Process 22
Part 1. DISCHARGE PROHIBITIONS 23
Part 2. RECEIVING WATER LIMITATIONS 24
Part 3. STORM WATER QUALITY MANAGEMENT PROGRAM (SQMP) IMPLEMENTATION 26
A. General Requirements 26
B. Best Management Practice Implementation 26
C. Revision of the Storm Water Quality Management Program 26
D. Designation and Responsibilities of the Principal Permittee 26
E. Responsibilities of the Permittees 27
F. Watershed Management Committees (WMCs) 28
G. Legal Authority 29
Part 4. SPECIAL PROVISIONS 30
A. General Requirements 31
B. Public Information and Participation Program (PIPP) 31
C. Industrial/Commercial Facilities Control Program 35
D. Development Planning Program 42
E. Development Construction Program 50
F. Public Agency Activities Program 53
G. Illicit Connections and Illicit Discharges Elimination Program 59
Part 5. DEFINITIONS 61
Part 6. STANDARD PROVISIONS 72
A. Standard Requirements 72
B. Regional Board Review 72
C. Public Review 73
D. Duty to Comply 73
E. Duty to Mitigate [40 CFR 122.41 (d)] 73
F. Inspection and Entry [40 CFR 122.41(i), CWC § 13267] 73
G. Proper Operation and Maintenance [40 CFR 122.41 (e), CWC § 13263(f)] 74
H. Signatory Requirements [40 CFR 122.41(k) & 122.22] 74
I. Reopener and Modification [40 CFR 122.41(f) & 122.62] 74
J. Severability 75
K. Duty to Provide Information [40 CFR 122.41(h)] 75
L. Twenty-four Hour Reporting [40 CFR 122.41(l)(6)] 75
M. Bypass [40 CFR 122.41(m)] 75
N. Upset [40 CFR 122.41(n)] 76
O. Property Rights [40 CFR 122.41(g)] 77
P. Enforcement 77
Q. Need to Halt or Reduce Activity not a Defense [40 CFR 122.41(c)] 78
R. Rescission 78
S. Expiration 78
Part 7. TOTAL MAXIMUM DAILY LOAD PROVISIONS 79

STATE OF CALIFORNIA

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION

ORDER NO. 01-182
NPDES PERMIT NO. CAS004001
WASTE DISCHARGE REQUIREMENTS
FOR
MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES WITHIN THE COUNTY OF LOS ANGELES, AND THE INCORPORATED CITIES THEREIN, EXCEPT THE CITY OF LONG BEACH

The California Regional Water Quality Control Board, Los Angeles Region (hereinafter referred to as the Regional Board) finds:

A. Existing Permit

The Los Angeles County Flood Control District, the County of Los Angeles, and 84 incorporated cities within the Los Angeles County Flood Control District (see Attachment A, List of Permittees), hereinafter referred to separately as Permittees and jointly as the Discharger, discharge or contribute to discharges of storm water and urban runoff from municipal separate storm sewer systems (MS4s), also called storm drain systems. The discharges flow to water courses within the Los Angeles County Flood Control District and into receiving waters of the Los Angeles Region. These discharges are covered under countywide waste discharge requirements contained in Order No. 96-054 adopted by this Regional Board on July 15, 1996, which replaced Order No. 90-079 adopted by this Regional Board on June 18, 1990. Order No. 96-054 also serves as a National Pollutant Discharge Elimination System (NPDES) permit for the discharge of municipal storm water.

B. Nature of Discharges and Sources of Pollutant

1. Storm water discharges consist of surface runoff generated from various land uses in all the hydrologic drainage basins that discharge into water bodies of the State. The quality of these discharges varies considerably and is affected by the hydrology, geology, land use, season, and sequence and duration of hydrologic events. The primary constituents of concern currently identified by the Los Angeles County Flood Control District Integrated Receiving Water Impacts Report (1994-2000) are cyanide, indicator bacteria, total dissolved solids, turbidity, total suspended solids, nutrients, total aluminum, dissolved cadmium, copper, lead, total mercury, nickel, zinc, bis(2-ethylhexyl)phthalate, polycyclic aromatic hydrocarbons (PAHs), diazinon, and chlorpyrifos.

2. Certain pollutants present in storm water and/or urban runoff may be derived from extraneous sources that Permittees have no or limited

jurisdiction over. Examples of such pollutants and their respective sources are: PAHs which are products of internal combustion engine operation, nitrates, bis (2-ethylhexyl) phthalate and mercury from atmospheric deposition, lead from fuels, copper from brake pad wear, zinc from tire wear, dioxins as products of combustion, and natural-occurring minerals from local geology. However, the implementation of the measures set forth in this Order is intended to reduce the entry of these pollutants into storm water and their discharge to receiving waters.

3. Water quality assessments conducted by the Regional Board identified impairment, or threatened impairment, of beneficial uses of water bodies in the Los Angeles Region. The causes of impairments include pollutants of concern identified in municipal storm water discharges by the County of Los Angeles in the Integrated Receiving Water Impacts Report (1994-2000). Pollutants in storm water can have damaging effects on both human health and aquatic ecosystems.

4. The Los Angeles County Grand Jury, September 2000, completed an investigation into the health risks of swimming near beaches in Los Angeles County and made several recommendations to reduce public health risks (Final Report, Grand Jury, Los Angeles County, 1999-2000). The Grand Jury recommended that the Regional Board consider among other actions, (i) a focus on setting contaminant limits rather than programmatic evaluations, (ii) audit of MS4 Permittee programs; and (iii) clarifying enforcement responsibilities between the State and local governments.

5. Studies and research conducted by other Regional agencies, academic institutions, and universities have also identified storm water and urban runoff as significant sources of pollutants to surface waters in Southern California. See, e.g., [*Surface Runoff to the Southern California Bight*, Southern California Coastal Water Research Project, (1992); *Impacts of Urban Runoff on Santa Monica Bay and Surrounding Ocean Waters* (Gersberg, R.M., 1995); *State of the Bay 1998*, Santa Monica Bay Restoration Project; *Storm Water Impact*, In, Southern California Environmental Report Card 1999, Institute of the Environment, University of California, Los Angeles (Stenstrom, M.S., 1999); *Distribution of Anthropogenic and Natural Debris on the Mainland Shelf of Southern California Bight,* Shelly L. Moore and M. James Allen (1999); *The Health Effects of Swimming in Ocean Water Contaminated by Storm Drain Runoff*, Haile, R.W. et al. (1999); *Huntington Beach Closure Investigation: Technical Review* (University of Southern California, 2000); *A Regional Survey of the Microbiological Water Quality Along the Shoreline of the Southern California Bight,* Rachel T. Noble *et al.* (2001*); Integrated Receiving Water Impacts Report (1994-2000)*, County of Los Angeles (2001)].

6. Development and urbanization increase pollutant load, volume, and discharge velocity. First, natural vegetated pervious ground cover is converted to impervious surfaces such as paved highways, streets, rooftops and parking lots. Natural vegetated soil can both absorb rainwater and remove pollutants providing an effective natural purification

process. In contrast, pavement and concrete can neither absorb water nor remove pollutants, and thus the natural purification characteristics are lost. Second, urban development creates new pollution sources as the increased density of human population brings proportionately higher levels of vehicle emissions, vehicle maintenance wastes, municipal sewage waste, pesticides, household hazardous wastes, pet wastes, trash, and other anthropogenic pollutants. Development and urbanization especially threaten environmentally sensitive areas. 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 in a particular sensitive environment become significant. These environmentally sensitive areas designated by the State and/or the County of Los Angeles include Areas of Special Biological Significance (ASBS), water bodies designated as supporting a RARE beneficial use, Significant Natural Areas (SNAs), and Significant Ecological Areas (SEAs).

7. The increased volume, increased velocity, and discharge duration of storm water runoff from developed areas has the potential to greatly accelerate downstream erosion and impair stream habitat in natural drainages. Studies have demonstrated a direct correlation between the degree of imperviousness of an area and the degradation of its receiving waters. Significant declines in the biological integrity and physical habitat of streams and other receiving waters have been found to occur with as little as 10 percent conversion from natural to impervious surfaces. Percentage impervious cover is a reliable indicator and predictor of potential water quality degradation expected from new development. (*Impervious Cover as An Urban Stream Indicator and a Watershed Management Tool*, Schueler, T. and R. Claytor, In, Effects of Water Development and Management on Aquatic Ecosystems (1995), ASCE, New York; Leopold, L. B., (1973), *River Channel Change with Time: An Example*, Geological Society of America Bulletin, v. 84, p. 1845-1860; Hammer, T. R., (1972), *Stream Channel Enlargement Due to Urbanization: Water Resources Research*, v. 8, p. 1530-1540; Booth, D. B., (1991), *Urbanization and the Natural Drainage System--Impacts, Solutions and Prognoses*: The Northwest Environmental Journal, v. 7, p. 93-118; Klein, R. D., (1979), *Urbanization and Stream Quality Impairment*: Water Resources Bulletin, v. 15, p. 948-963; May, C. W., Horner, R. R., Karr, J. R., Mar, B. W., and Welch, E. B., (1997), *Effects of Urbanization on Small Streams in the Puget Sound Lowland Ecoregion*: Watershed Protection Techniques, v. 2, p. 483-494; Morisawa, M. and LaFlure, E. *Hydraulic Geometry, Stream Equilibrium and Urbanization* In Rhodes, D. P. and Williams, G. P. *Adjustments to the Fluvial System* p.333-350. (1979); Dubuque, Iowa, Kendall/Hunt. Tenth Annual Geomorphology Symposia Series; and *The Importance of Imperviousness*: Watershed Protection Techniques, 1(3), Schueler, T. (1994).)

8. The County of Los Angeles has identified as the seven highest priority industrial and commercial critical source types, (i) wholesale trade (scrap recycling, auto dismantling); (ii) automotive repair/parking; (iii) fabricated

metal products; (iv) motor freight; (v) chemical and allied products; (vi) automotive dealers/gas stations; (vii) primary metal products (*Critical Source Selection and Monitoring Report*, Los Angeles County Department of Public Works -Sept 1996). Monitoring conducted by Los Angeles County and the Regional Board demonstrates that the priority industrial sectors and auto repair facilities (one of the commercial sectors) on the list, contribute significant concentrations of heavy metals to storm water (*Los Angeles County 1999-2000 Storm Water Monitoring Report*, Los Angeles County Department of Public Works -July 2000; *Compliance Assessment of the Auto Dismantling Industry; Evaluation of the California General Industrial Storm Water Permit*, H. Chang, (2001), 70 pp., California Regional Water Quality Control Board, Los Angeles Region).

9. The discharge of washwaters and contaminated storm water from industries and businesses specified in this Order for inspection by Permittees is an environmental threat and can also adversely impact public health and safety. For example, a review of industrial waste/ pretreatment records performed in 1995 in the County of Los Angeles on illicit discharges indicates that automotive service facilities and food service facilities sometimes discharge polluted washwaters to the MS4. The pollutants of concern in such washwaters include food waste, oil and grease, and toxic chemicals. Other storm water/industrial waste programs in California have reported similar observations. Illicit discharges from automotive service facilities and food service facilities have been identified elsewhere as a major cause of widespread contamination and water quality problems (Washtenaw County Statutory Drainage Board - 1987 Huron River Pollution Abatement Program).

10. Studies indicate that facilities with paved surfaces subject to frequent motor vehicular traffic (such as parking lots and fast food restaurants), or facilities that perform vehicle repair, maintenance, or fueling (automotive service facilities) are potential sources of pollutants of concern in storm water. [References: Pitt *et a*l., *Urban Storm Water Toxic Pollutants: Assessment, Sources, and Treatability*, Water Environment Res., 67, 260 (1995)*; Results of Retail Gas Outlet and Commercial Parking Lot Storm Water Runoff Study*, Western States Petroleum Association and American Petroleum Institute, (1994); *Action Plan Demonstration Project, Demonstration of Gasoline Fueling Station Best Management Practices*, Final Report, County of Sacramento (1993); *Source Characterization*, R. Pitt, In Innovative Urban Wet-Weather Flow Management Systems (2000) Technomic Press, Field, R *et al*. editors; *Characteristics of Parking Lot Runoff Produced by Simulated Rainfall*, , L.L. Tiefenthaler *et al*. Technical Report 343, Southern California Coastal Water Research Project (2001).]

11. Retail Gasoline Outlets (RGOs) are points of convergence for vehicular traffic and are similar to parking lots and urban roads. Studies indicate that storm water discharges from RGOs have high concentrations of hydrocarbons and heavy metals. [*The Quality of Trapped Sediments and Poor Water within Oil Grit Separators in Suburban MD,* Schueler T. and

Shepp D. (1992), and *Concentrations of Selected Constituents in Runoff from Impervious Surfaces in Four Urban Catchments of Different Landuse*, Ranabal, F.I., and T.J. Gizzard (1995), In Proceedings of the Fourth Biennial Stormwater Research Conference, Florida, pp-42-52]. Pilot studies indicate that treatment control best management practices installed at retail gasoline stations are effective in removing pollutants, reasonable in capital cost, easy to operate, and do not present safety risks [*Rouge River National Wet Weather Demonstration Project, Task Product Memorandum – Evaluation of On-line Media Filters RPO-NPS-TPM59.00*, Wayne County, MI, March 1999]. The Regional Board and the San Diego Regional Board have jointly prepared a Technical Report on the applicability of new development BMP design criteria for retail gasoline outlets, (*Retail Gasoline Outlets: New Development Design Standards for Mitigation of Storm Water Impacts*, (June 2001)). Retail Gasoline Outlets in Western U.S. States (such as Washington and Oregon) are already subject to numerical BMP design criteria, as well in other U.S. States.

C. Permit Background

1. The essential components of the Storm Water Management Program, as established by federal regulations [40 CFR 122.26(d)] are: (i) Adequate Legal Authority, (ii) Fiscal Resources, (iii) Storm Water Quality Management Program (SQMP) - (Public Information and Participation Program, Industrial/Commercial Facilities Program, Development Planning Program, Development Construction Program, Public Agency Activities Program, Illicit Connection and Illicit Discharges Elimination Program), and (iv) Monitoring and Reporting Program.

2. The Permittees have filed a Report of Waste Discharge (ROWD), dated February 1, 2001, and applied for renewal of their waste discharge requirements that serves as an NPDES permit to discharge wastes to surface waters. The ROWD includes a proposed SQMP and a Monitoring Program. The proposed SQMP contains programs previously approved under Board Order No. 96-054 in the following areas:

   Public Information and Participation
   Development Planning
   Development Construction
   Public Agency Activities
   Illicit Connection/Illicit Discharge Elimination Program

   These programs are revised pursuant to the provisions of this Order after adoption.

3. The County of Los Angeles has previously conducted source identification and pollutant characterization consistent with 40 CFR 122.26(d)(1)(ii) and (iii) under its storm water Monitoring Program. The Monitoring Program submitted with the ROWD proposes to advance the assessment of receiving water impacts, identification of sources of pollution, evaluation of Best Management Practices (BMPs), and measurement of long term trends in mass emissions.

4. The Regional Board has reviewed the ROWD and has determined it to be complete under the reapplication policy of MS4s issued by the U.S. Environmental Protection Agency (USEPA) (61 *Fed. Reg*. 41697). The Regional Board finds that the Permittees' proposed SQMP, incorporating the additional and/or revised provisions contained in this Order would meet the minimum requirements of federal regulations.

5. The City of Los Angeles has conducted shoreline and nearshore water quality monitoring off the Santa Monica Bay since the 1950s under the monitoring program for the Hyperion Waste Water Treatment Plant (NPDES No. CA0109991). The monitoring results indicate that effluent from Hyperion's 5-Mile Outfall does not impinge the shoreline, and that elevated bacterial counts are associated with runoff from storm drains and discharges from piers. In 1994, the Regional Board approved the relocation of Hyperion's shoreline stations to implement a bay-wide, regional shoreline-monitoring program associated with storm drain outfalls in the Santa Monica Bay. The City of Los Angeles requested that the shoreline-monitoring requirement be incorporated in this Order. The shoreline pathogen monitoring requirements are outlined in the Monitoring Program for this Order.

D. Permit Coverage

1. The requirements in this Order cover all areas within the boundaries of the Permittee municipalities (see Attachment A) over which they have regulatory jurisdiction as well as unincorporated areas in Los Angeles County within the jurisdiction of the Regional Board. The Permittees serve a population of about 9.5 million [Reference: *2000 Census of Population and Housing,* Bureau of the Census, U.S. Department of Commerce (2001)] in an area of approximately 3,100 square miles.

2. Federal, state, regional or local entities within the Permittees' boundaries or in jurisdictions outside the Los Angeles County Flood Control District, and not currently named in this Order, may operate storm drain facilities and/or discharge storm water to storm drains and watercourses covered by this Order. The Permittees may lack legal jurisdiction over these entities under state and federal constitutions. The Regional Board will coordinate with these entities to implement programs that are consistent with the requirements of this Order. The Regional Board will consider such facilities for coverage in 2003 under its NPDES permitting scheme pursuant to USEPA Phase II storm water regulations.

3. Sources of discharges into receiving waters in the County of Los Angeles but in jurisdictions outside its boundary include the following:

   About 34 square miles of unincorporated area in Ventura County, which drain into Malibu Creek and then to Santa Monica Bay,

   About 9 square miles of the City of Thousand Oaks, which also drain into Malibu Creek and then to Santa Monica Bay, and

About 86 square miles of area in Orange County, which drain into Coyote Creek and then into the San Gabriel River.

The Regional Board will ensure that storm water management programs for the areas in Ventura County and the City of Thousand Oaks that drain into Santa Monica Bay are consistent with the requirements of this Order. The Regional Board will coordinate with the Santa Ana Regional Board so that storm water management programs for the areas in Orange County that drain into Coyote Creek are consistent with the requirements of this Order.

4. This permit is intended to develop, achieve, and implement a timely, comprehensive, cost-effective storm water pollution control program to reduce the discharge of pollutants in storm water to the Maximum Extent Practicable (MEP) from the permitted areas in the County of Los Angeles to the waters of the U.S. subject to the Permittees' jurisdiction.

5. Permittees have expressed their intention to work cooperatively to control the contribution of pollutants from one portion of the MS4 to another portion of the system. Permittees may control the contribution of pollutants to the MS4 from non-permittee dischargers such as Caltrans, the U.S. Department of Defense, and other state and federal facilities, through interagency agreements.

E. Federal, State, and Regional Regulations

1. The Water Quality Act of 1987 added Section 402(p) to the federal Clean Water Act (CWA) (33 U.S.C. § 1251-1387). This section requires the USEPA to establish regulations setting forth NPDES requirements for storm water discharges in two phases.

   - The USEPA Phase I storm water regulations were directed at MS4s serving a population of 100,000 or more, including interconnected systems and storm water discharges associated with industrial activities, including construction activities. The Phase I Final Rule was published on November 16, 1990 (55 *Fed. Reg*. 47990).

   - The USEPA Phase II storm water regulations are directed at storm water discharges not covered in Phase I, including small MS4s (serving a population of less than 100,000), small construction projects (one to five acres), municipal facilities with delayed coverage under the Intermodal Surface Transportation Efficiency Act of 1991, and other discharges for which the USEPA Administrator or the State determines that the storm water discharge contributes to a violation of a water quality standard, or is a significant contributor of pollutants to waters of the United States. The Phase II Final Rule was published on December 8, 1999 (64 *Fed. Reg*. 68722).

2. The USEPA published an 'Interim Permitting Approach for Water Quality-Based Effluent Limitations in Storm Water Permits' on August 26, 1996 (61 *Fed. Reg.* 43761). This policy discusses the appropriate kinds of

water quality-based effluent limitations to be included in NPDES storm water permits to provide for the attainment of water quality standards.

3. The USEPA published an 'Interpretative Policy Memorandum on Reapplication Requirements' for MS4 permits on August 9, 1996 (61 *Fed. Reg*. 41697). This policy requires that MS4 reapplication for reissuance for a subsequent five-year permit term contain certain basic information and information for proposed changes and improvements to the storm water management program and monitoring program.

4. The USEPA has entered into a Memorandum of Agreement (MOA) with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service for enhancing coordination regarding the protection of endangered and threatened species under Section 7 of the Endangered Species Act and the CWA's Water Quality Standards and NPDES programs. Among other actions, the MOA establishes a framework for coordination of actions by the USEPA, the Services, and CWA delegated States on CWA permit issuance under Section 402 of the CWA [66 *Fed. Reg*. 11202 – 11217].

5. USEPA regulations at 40 CFR 122.26(d)(2)(iv)(A) and 40 CFR 122.26(d)(2)(iv)(C) require that MS4 permittees implement a program to monitor and control pollutants in discharges to the municipal system from industrial and commercial facilities that contribute a substantial pollutant load to the MS4. The regulations require that permittees establish priorities and procedures for inspection of industrial facilities and priority commercial establishments. This permit, consistent with the USEPA policy, incorporates a cooperative partnership, including the specifications of minimum expectations, between the Regional Board and the Permittees for the inspection of industrial facilities and priority commercial establishments to control pollutants in storm water discharges (58 *Fed. Reg.* 61157).

6. Section 402 (p) of the CWA (33 U.S.C. § 1342(p) provides that MS4 permits must "require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design engineering method and such other provisions as the [EPA] Administrator or the State determines appropriate for the control of such pollutants." The State Water Resources Control Board's (State Board) Office of Chief Counsel (OCC) has issued a memorandum interpreting the meaning of MEP to include technical feasibility, cost, and benefit derived with the burden being on the municipality to demonstrate compliance with MEP by showing that a BMP is not technically feasible in the locality or that BMPs costs would exceed any benefit to be derived (dated February 11, 1993).

7. The CWA authorizes the USEPA to permit a state to serve as the NPDES permitting authority in lieu of the USEPA. The State of California has in-lieu authority for an NPDES program. The Porter-Cologne Water Quality Control Act authorizes the State Board, through the Regional Boards, to regulate and control the discharge of pollutants into waters of the State. The State Board entered into a MOA with the USEPA, on

September 22, 1989, to administer the NPDES Program governing discharges to waters of the U.S.

8. Section 303(d) of the CWA requires that the State identify a list of impaired water-bodies and develop and implement Total Maximum Daily Loads (TMDLs) for these waterbodies (33 U.S.C. §1313(d)(1)). A TMDL specifies the maximum amount of a pollutant that a water-body can receive, still meet applicable water quality standards and protect beneficial uses. The USEPA entered into a consent decree with the Natural Resources Defense Council (NRDC), Heal the Bay, and the Santa Monica BayKeeper on March 22, 1999, under which the Regional Board must adopt all TMDLs for the Los Angeles Region within 13 years from that date. This permit incorporates a provision to implement and enforce approved load allocations for municipal storm water discharges and requires amending the SQMP after pollutants loads have been allocated and approved.

9. 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 (16 U.S.C. § 1451-1465) amends the Coastal Zone Management Act of 1972, to address 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 Regional Board addresses septic systems through the administration of other programs.

10. On May 18, 2000, the USEPA established numeric criteria for priority toxic pollutants for the State of California (California Toxics Rule (CTR)) 65 *Fed. Reg*. 31682 (40 CFR 131.38), for the protection of human health and aquatic life. These apply as ambient water quality criteria for inland surface waters, enclosed bays, and estuaries. The State Board adopted the *Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (SIP) – 2000,* on March 2, 2000, for implementation of the CTR (State Board Resolution No. 2000-15 as amended by Board Resolution No. 2000-030). This policy requires that discharges comply with TMDL-derived load allocations as soon as possible but no later than 20 years from the effective date of the policy.

11. The State Board adopted a revised Water Quality Control Plan for Ocean Waters of California (Ocean Plan) on July 23, 1997. The Ocean Plan contains water quality objectives which apply to all discharges to the coastal waters of California.

12. The State Board in *In Re*: California Department of Transportation (State Board Order WQ 2001-08), determined that the discharge of storm water to ASBS is subject to the prohibition in the Ocean Plan against the discharge of wastes to an ASBS.

13. The Regional Board adopted an updated Water Quality Control Plan (Basin Plan) for the Los Angeles Region on June 13, 1994, *'Water Quality Control Plan, Los Angeles Region: Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties*, (1994).' The Basin Plan designates beneficial uses of receiving waters and specifies both narrative and numerical water quality objectives for the receiving waters in Los Angeles County.

14. The Regional Board on September 19, 2001, adopted amendments to the Basin Plan, to incorporate TMDLs for trash in the Los Angeles River Watershed (Resolution No. R01-013) and Ballona Creek Watershed (Resolution No. R01-014). The amendments were subsequently approved by the State Board, the Office of Administrative Law, and the United States Environmental Protection Agency. Twenty-two cities[1] ("Cities") sued the Regional Board and State Board to set aside the Los Angeles River Trash TMDL. The trial court entered an order deciding some claims in favor of the Water Boards and some in favor of the Cities. Both sides appealed, and on January 26, 2006, the Court of Appeal decided every one of the Cities' claims in favor of the Water Boards, except with respect to California Environmental Quality Act (CEQA) compliance (*City of Arcadia et al. v. Los Angeles Regional Water Quality Control Board et al.* (2006) 135 Cal.App.4th 1392). The Court therefore declared the Los Angeles River Trash TMDL void, and issued a writ of mandate that ordered the Water Boards to set aside and not implement the TMDL, until it had been brought into compliance with CEQA. As a result of the appellate court's decision, in 2006, the Regional Board set aside its 2001 action incorporating the TMDL into the Basin Plan (Resolution R06-013) (*City of Arcadia et al. v. Los Angeles Regional Water Quality Control Board et al.* (2006) 135 Cal.App.4th 1392). After conducting the required CEQA analysis, the Regional Board readopted the Los Angeles River Watershed Trash TMDL on August 9, 2007 (Resolution No. R07-012). This TMDL was subsequently approved by the State Board (Resolution No. 2008-0024), the Office of Administrative Law (File No. 2008-0519-02 S), and the United States Environmental Protection Agency, and became effective on September 23, 2008. The Water Boards filed their final return to the writ of mandate on August 6, 2008, and on August 26, 2008, the superior court entered an order discharging the writ, and dismissing the case, thus concluding the legal challenges to the Trash TMDL.

15. The Regional Board on April 13, 1998, approved BMPs for sidewalk rinsing to minimize the discharge of wash waters to the storm drain system (Resolution No. 98-08). By the same resolution, the Regional Board prohibited the discharge of municipal street wash waters to the storm drain system.

[1] The cities include Arcadia, Baldwin Park, Bellflower, Cerritos, Commerce, Diamond Bar, Downey, Irwindale, Lawndale, Monrovia, Montebello, Monterey Park, Pico Rivera, Rosemead, San Gabriel, Santa Fe Springs, Sierra Madre, Signal Hill, South Pasadena, Vernon, West Covina, and Whittier.

16. The Regional Board on April 13, 1998, approved recommended BMPs for industrial/commercial facilities (Resolution No. 98-08).

17. The Regional Board on April 22, 1999, approved a list of BMPs for use in development planning and development construction (Resolution No. 99-03)

18. The Regional Board adopted and approved requirements for new development and significant redevelopment projects in Los Angeles County to control the discharge of storm water pollutants in post-construction storm water, on January 26, 2000, in Board Resolution No. R-00-02. The Regional Board Executive Officer issued the approved Standard Urban Storm Water Mitigation Plans (SUSMPs) on March 8, 2000. The State Board in large part affirmed the Regional Board action and SUSMPs in State Board Order No. WQ 2000-11 issued on October 5, 2000.

    - The State Board's Chief Counsel has issued a statewide policy memorandum (dated December 26, 2000), which interprets the Order to provide broad discretion to Regional Boards and identifies potential future areas for inclusion in SUSMPs and the types of evidence and findings necessary. Such areas include ministerial projects, projects in environmentally sensitive areas, and water quality design criteria for RGOs.

    - The State Board's Chief Counsel interprets the Order to encourage regional solutions and endorses a mitigation fund or "bank" that may be funded by developers who obtain waivers from the numerical design standards for new development and significant redevelopment.

19. 40 CFR 131.10(a) prohibits states from designating waste transport or waste assimilation as a use for any water of the U.S. Authorizing the construction of a storm water/ urban runoff treatment facility in a jurisdictional water body would be tantamount to accepting waste assimilation as an appropriate use for that water body. Furthermore, the construction and operation of a pollution control facility in a water body can impact the physical, chemical, and biological integrity as well as the beneficial uses of the water body. Therefore, storm water treatment and/or mitigation in accordance with SUSMPs and any other requirements of this Order must occur prior to the discharge of storm water into a water of the U.S.

20. The Regional Board supports a Watershed Management Approach to address water quality protection in the region. The objective of the Watershed Management Approach should be to provide a comprehensive and integrated strategy towards water resource protection, enhancement, and restoration while balancing economic and environmental impacts within a hydrologically defined drainage basin or watershed. It emphasizes cooperative relationships between regulatory agencies, the regulated community, environmental groups, and other

stakeholders in the watershed to achieve the greatest environmental improvements with available resources.

21. To promote a watershed management approach, the County of Los Angeles is divided into six Watershed Management Areas (WMAs) as follows:

    Malibu Creek and Rural Santa Monica Bay WMA
    Ballona Creek and Urban Santa Monica Bay WMA
    Los Angeles River WMA
    San Gabriel River WMA
    Dominguez Channel/Los Angeles Harbor WMA, and
    Santa Clara River WMA

    Attachment A shows the list of Permittees under each WMA and some Permittees have expressed an intent to form sub-watershed groups within the WMA to promote regional solutions for the mitigation of storm water discharge pollution.

22. To facilitate compliance with federal regulations, the State Board has issued two statewide general NPDES permits for storm water discharges: one for storm water from industrial sites [NPDES No. CAS000001, General Industrial Activity Storm Water Permit (GIASP)] and the other for storm water from construction sites [NPDES No. CAS000002, General Construction Activity Storm Water Permit (GCASP)]. The GCASP was reissued on August 19, 1999. The GIASP was reissued on April 17, 1997. Facilities discharging storm water associated with industrial activities and construction projects with a disturbed area of five acres or more are required to obtain individual NPDES permits for storm water discharges, or to be covered by a statewide general permit by completing and filing a Notice of Intent (NOI) with the State Board. The USEPA guidance anticipates coordination of the state-administered programs for industrial and construction activities with the local agency program to reduce pollutants in storm water discharges to the MS4.

    The Regional Board is the enforcement authority in the Los Angeles Region for the two statewide general permits regulating discharges from industrial facilities and construction sites, and all NPDES storm water and non-storm water permits issued by the Regional Board. These industrial and construction sites and discharges are also regulated under local laws and regulations.

23. The State Board, on October 28, 1968, adopted Resolution No. 68-16, which established an anti-degradation policy for the State and Regional Boards. This policy restricts the degradation of surface waters and protects waterbodies where existing water quality is higher than is necessary for the protection of beneficial uses.

24. The State Board, on June 17, 1999, adopted Order No. WQ 99-05, which, in a precedential decision, identifies acceptable receiving water limitations language to be included in municipal storm water permits issued by the State and Regional Boards. The receiving water limitations included herein are consistent with the State Board Order, USEPA Policy,

and the U.S. Appellate court decision in, *Defenders of Wildlife v. Browner* (9th. Cir, 1999). The State Board OCC has determined that the federal court decision did not conflict with State Board Order No. WQ 99-05 (memorandum dated October 14, 1999)

25. California Water Code (CWC) § 13263(a) requires that waste discharge requirements issued by the Regional Board shall implement any relevant water quality control plans that have been adopted; shall take into consideration the beneficial uses to be protected and the water quality objectives reasonably required for that purpose; other waste discharges; the need to prevent nuisance; and provisions of CWC § 13241. The Regional Board has considered the requirements of § 13263 and § 13241, and applicable plans, policies, rules, and regulations in developing these waste discharge requirements.

26. CWC § 13370 *et seq.* requires that waste discharge requirements issued by the Regional Boards be consistent with provisions of the federal CWA and its amendments.

27. On March 12, 2001, the U.S. Court of Appeals ruled that it is necessary to obtain a NPDES permit for application of aquatic pesticides to waterways. (*Headwaters, Inc. vs. Talent Irrigation District,* 243 F.3d. 526 (9th Cir., 2001)) This decision is controlling in California for nonagricultural applications of pesticides to waterways. The State Board adopted a general NPDES permit (Order No. 2001-12-DWQ) on July 19, 2001, for public entities that discharge pollutants to waters of the U.S. associated with the application of aquatic pesticides for resource or pest management. Public entities that conduct such activities must seek coverage under the general permit.

The Marina Del Rey Harbor Mothers' Beach and Back Basins Bacteria TMDL

28. [Intentionally left blank]

29. The Regional Board adopted the Marina del Rey Harbor Mothers' Beach and Back Basins Bacteria TMDL (hereinafter "MDR Bacteria TMDL") on August 7, 2003. The TMDL was subsequently approved by the SWRCB, the OAL, and the USEPA and became effective on March 18, 2004.

30. Tables 7-5.1, 7-5.2, and 7-5.3 of the Basin Plan set forth the pertinent provisions of the MDR Bacteria TMDL.

31. [Intentionally left blank]

32. [Intentionally left blank]

33. On March 14, 2007, Marina del Rey watershed responsible agencies submitted to the Regional Board the results of a non-point source study conducted over a one year period between July 2005 and July 2006, which was required under the terms of the MDR TMDL. The study was designed to determine the relative bacterial loading to the harbor from sources including but not limited to storm drains, boats, birds, and other non-point sources. The study has not yet been peer reviewed, and is currently under review by Regional Board staff.

34. On January 8, 2007, as required by the MDR Bacterial TMDL, Marina del Rey watershed responsible agencies submitted to the Regional Board an implementation plan describing the strategy by which they intend to comply with the MDR Bacterial TMDL. This implementation plan was developed through a process that included both Regional Board staff and representatives from Heal the Bay and Santa Monica Baykeeper.

35. The Regional Board acknowledges the County's timely submittals of reports required by the TMDL and implementation measures initiated thus far towards meeting water quality standards for bacteria in Marina del Rey. As a result of the adoption of the MDR Bacterial TMDL in 2003, the County has funded or received grants to initiate the following activities:

- Marina Beach Water Quality Improvement Project, Phase I and Phase II through a CBI grant;
- Mothers' Beach and Back Basins Bacterial TMDL Non-point Source Study;
- Marina del Rey Harbor Mothers Beach and Back Basins Report of Small Drain Identification;
- Marina del Rey Vessel Discharge Report;
- Marina del Rey Harbor Mothers' Beach and Back Basins Bacterial TMDL Coordinated Monitoring Plan; and
- Three low-flow diversion projects, which were partially funded by a grant, two of which have been completed.

In addition to participation in the above studies, the County and other Marina del Rey watershed responsible agencies continue to implement BMPs proposed in the January 8, 2007, Implementation Plan.

36. [Intentionally left blank][2]

37. [Intentionally left blank]

a) [Intentionally left blank]

[2] [Intentionally left blank]

b) [Intentionally left blank]

c) [Intentionally left blank]

d) [Intentionally left blank]

38. [Intentionally left blank]

39. [Intentionally left blank]

Findings Related to the Incorporation of the Los Angeles River Watershed Trash TMDL

40. The Regional Board adopted the Los Angeles River Trash Total Maximum Daily Load (TMDL) on August 9, 2007 as an amendment to the region's Water Quality Control Plan (Basin Plan) to address water quality impairments due to trash in the Los Angeles River Watershed that were identified in 1998 on the State's Clean Water Act Section 303(d) List. This TMDL was subsequently approved by the State Board, the Office of Administrative Law (OAL), and the USEPA, and it became effective on September 23, 2008.

41. By its adoption of the Trash TMDL, the Regional Board determined that trash discharged to the Los Angeles River and its tributaries discourages recreational activity, degrades aquatic habitat, threatens wildlife through ingestion and entanglement, and also poses risks to human health. Existing beneficial uses impaired by trash in the Los Angeles River are contact recreation (REC-1) and non-contact recreation (REC-2); warm fresh water habitat (WARM); wildlife habitat (WILD); estuarine habitat (EST) and marine habitat (MAR); rare, threatened or endangered species (RARE); migration of aquatic organisms (MIGR) and spawning, reproduction and early development of fish (SPWN); commercial and sport fishing (COMM); wetland habitat (WET); and cold freshwater habitat (COLD).

42. The Los Angeles River Watershed Trash TMDL identifies discharges from the municipal separate storm sewer system as the principal source of trash to the Los Angeles River and its tributaries. As such, WLAs were assigned to MS4 Permittees that discharge to the MS4 in the watershed. The WLAs are expressed as progressively decreasing allowable amounts of trash discharges from jurisdictional areas within the watershed. The Trash TMDL requires MS4 Permittees to make annual reductions of their discharges of trash to the Los Angeles River Watershed over a 9-year period, until the numeric target of zero trash discharged from the MS4 is achieved for the 2013-2014 storm year. The Basin Plan assigns MS4 Permittees within the Los Angeles River Watershed baseline Waste Load Allocations from which annual reductions are to be made. (See Basin Plan, Table 7-2.2.) The Basin Plan also specifies interim and final Waste Load Allocations as decreasing percentages of the Table 7-2.2 baseline

WLAs, and specifies the corresponding "Compliance Points". (See Basin Plan, Table 7-2.3.)

43. The Los Angeles River Watershed Trash TMDL specifies that the WLAs shall be implemented through MS4 permits. Federal regulations require that NPDES permits be consistent with the assumptions and requirements of any available waste load allocation. (40 CFR 122.44(d)(1)(vii)(B).) State law requires both that the Regional Board implement its Basin Plan when adopting waste discharge requirements (WDRs) and that NPDES permits apply "any more stringent effluent standards or limitations necessary to implement water quality control plans…" (Wat. Code §§ 13263, 13377).

44. The Ninth Circuit Court of Appeals in *Defenders of Wildlife v. Browner* ruled that the Clean Water Act grants the permitting agency discretion either to require "strict compliance" with water quality standards through the imposition of numeric effluent limitations, or to employ an iterative approach toward compliance with water quality standards, by requiring improved BMPs over time (*Defenders of Wildlife v. Browner* (9th Cir. 1999) 191 F.3d 1159). In a precedential decision, the State Board acknowledged that the holding in *Browner* allows the issuance of MS4 permits that limit their provisions to BMPs that control pollutants to the MEP, and which do not require compliance with water quality standards. However, the Water Boards have declined to adopt that approach in light of the impacts of discharges from MS4s on waters throughout the State and Los Angeles region (see Order WQ 2001-15 and Part 2 of the LA County MS4 Permit). The State Board concluded and the Regional Board agrees that "where urban runoff is causing or contributing to exceedances of water quality standards, it is appropriate to require improvements to BMPs that address those exceedances" (Order WQ 2001-15, p. 8).

45. In a recent decision, the State Board also concluded that incorporation of the provisions of TMDLs into MS4 permits requires extra consideration. Specifically, the State Board held: "TMDLs, which take significant resources to develop and finalize, are devised with specific implementation plans and compliance dates designed to bring impaired waters into compliance with water quality standards. It is our intent that federally mandated TMDLs be given substantive effect. Doing so can improve the efficacy of California's NPDES storm water permits." The State Board stated that TMDLs should not be an "academic exercise", and indicated that in some instances when implementing TMDLs, numeric effluent limitations may be an appropriate means of controlling pollutants in storm water, provided the Regional Board's determination is adequately supported in the permit findings (Order WQ 2009-0008). The following paragraphs support the Regional Board's determination to implement the Trash TMDL with numeric effluent limitations.

46. The Trash TMDL specified a specific formula for calculating and allocating annual reductions in trash discharges from each jurisdiction.

The formula results in specified annual amounts of trash that may be discharged from each jurisdiction into the receiving waters. Translation of the compliance points described in the TMDL into jurisdiction-specific load reductions from the baseline levels, as specified in the TMDL, logically results in the articulation of an annual limit on the amount of a pollutant that may be discharged. The specification of allowable annual trash discharge amounts meets the definition of an "effluent limitation", as that term is defined in subdivision (c) of section 13385.1 of the California Water Code. Specifically, the trash discharge limitations constitute a "numeric restriction … on the quantity [or] discharge rate … of a pollutant or pollutants that may be discharged from an authorized location." While there may be other ways to incorporate the compliance points from the TMDL into permit conditions, the Regional Board is not aware of any other mechanisms that would result in actual compliance with the requirements of the TMDL as it was intended.

47. The process to establish the Trash TMDL was exceedingly lengthy, heavily litigated and scrutinized, and contained extensive analysis. The essence of this TMDL has been twice adopted by the Regional Board, and approved by the State Board, OAL, and the US EPA, and has been subject to considerable judicial review. Therefore, the assumptions underlying this TMDL have been thoroughly vetted by staff, stakeholders, other agencies, and the courts over a significant period of time.

48. In its resolution establishing the Trash TMDL, the Regional Board already determined that the implementation schedule was reasonable and feasible, and noted that the MS4 Permittees had notice of the trash impairment since at least 1998 (with its listing on the 1998 303(d) list) and had been required to attain water quality standards for trash in the receiving waters since this order was first adopted in December of 2001. (See e.g., Resolution R07-012, finding 14.) The Court of Appeal affirmed the Regional Board's determination that the final waste load allocations were attainable and not inordinately expensive. (*Cities of Arcadia*, 135 Cal.App.4th at 1413 and 1427-1430.) Full capture systems, partial capture devices, and institutional controls are presently available to feasibly and practicably attain the interim and final effluent limitations, and it is anticipated that this order will precipitate additional innovations in control strategies and technologies, just as the adoption of the Trash TMDL resulted in the proffering and certification of seven full capture systems.

49. The Trash TMDL and this order include provisions that allow Permittees to be deemed in compliance with their effluent limitations through the installation of certain best management practices (certified full capture systems). Any Permittee that is deemed in compliance through the use of certified full capture systems would not be in violation of the effluent limitations even if some trash is discharged in excess of the annual limitations.

50. The Trash TMDL includes provisions requiring its reconsideration after a trash reduction of 50% has been achieved and sustained in the

watershed, which provides an opportunity to reexamine some of the assumptions of the TMDL after tangible and meaningful progress has been made in the watershed. (See Basin Plan, Table 7-2.3, fn. 2.) Should this reconsideration result in a modification to the final waste load allocations, the permit will be reopened pursuant to Part 6., paragraph I.1.b, to ensure the effluent limitations contained in Tables 1a and 1b of Appendix 7-1 are consistent with the assumptions and requirements of any revised waste load allocations. (40 CFR § 122.44(d)(1)(vii)(B).)

51. Depending upon the compliance strategy selected by each Permittee, compliance with the effluent limitations set forth in Appendix 7-1 may require a demonstration that the Permittee is in strict compliance with water quality standards. It remains the Permittee's choice, however, to comply via certified full capture systems (which do not require a demonstration of strict compliance with water quality standards), or partial capture devices and/or institutional controls.

52. Section 402(p)(3)(B)(iii) of the Clean Water Act, requires MS4 Permittees to reduce the pollutants in their storm water discharges to the "maximum extent practicable" (MEP). As set forth herein, "practicable" options presently exist to achieve compliance with the effluent limitations. Since the effluent limitations can be practicably achieved, their imposition is within the federally mandated MEP standard, and no analysis contemplated by *City of Burbank v. SWRCB* (2005) 35 Cal.4th 613 pursuant to Water Code section 13241 is necessary to support these effluent limitations.

53. In its discretion, the Regional Board may administratively impose civil liability of up to $10,000 for "each day in which the violation [of waste discharge requirements] occurs." (Wat. C. § 13385, subd (c).) Not every storm event may result in trash discharges. The Los Angeles River Trash TMDL adopted by the Regional Board states that improperly deposited trash is mobilized during storm events of greater than 0.25 inches of precipitation. Therefore, violations of the effluent limitations are limited to the days of a storm event of greater than 0.25 inches. Once a Permittee has violated the annual effluent limitation, any subsequent discharges of trash during any day of a storm event of greater than 0.25 inches during the same storm year constitutes an additional "day in which the violation [of the effluent limitation] occurs".

54. Unlike subdivision (c) of Water Code section 13385 where violations of effluent limitations are assessed on a per day basis, the mandatory minimum penalties subdivisions (Wat. Code § 13385, subd. (h) and (i)) require the Regional Board to assess mandatory minimum penalties for "each violation" of an effluent limitation. The effluent limitations in Appendix 7-1 are expressed as annual limitations. Therefore, there can be no more than one violation of each interim or final effluent limitation per year. Trash is considered a Group I pollutant, as specified in Appendix A to section 123.45 of Title 40 of the Code of Federal Regulations. Therefore, each annual violation of an effluent limitation in

Appendix 7-1 by forty percent or more would be considered a "serious violation" under subdivision (h). With respect to the final effluent limitation of zero trash, any detectable discharge of trash necessarily is a serious violation, in accordance with the State Board's Enforcement Policy. Violations of the effluent limitations in Appendix 7-1 would not constitute "chronic" violations that would give rise to mandatory liability under subdivision (i) because four or more violations of the effluent limitations subject to a mandatory penalty cannot occur in a period of six consecutive months.

55. Therefore, the modifications to the Order include effluent limitations in a manner consistent with the assumptions and requirements of the WLAs from which they are derived as well as an allowance to comply with these effluent limitations [*i.e.* WLAs] through proper installation and maintenance of certified full capture systems.

56. Modifications consistent with the assumptions and requirements of the TMDL are therefore included in Parts 4 (Special Provisions) and 5 (Definitions) of this Order. Part 7 (Total Maximum Daily Load Provisions) is added to this Order and incorporates provisions to assure that Los Angeles County MS4 Permittees achieve the Waste Load Allocations (WLAs) and comply with other requirements of Total Maximum Daily Loads (TMDLs) covering impaired waters impacted by the Permittees' discharges. These modifications are made pursuant to 40 CFR sections 122.41(f), 122.44.(d)(1)(vii)(B), and 122.62, and Part 6.I.1 of this Order. Tables 7-2.1, 7-2.2, and 7-2.3 of the Basin Plan set forth the pertinent provisions of the Los Angeles River Watershed Trash TMDL. The interim and final effluent limitations consistent with the assumptions and requirements of the waste load allocations, and related provisions required of Permittees within the watershed are provided in Part 7 of this Order.

57. Permittees identified as responsible agencies in the Trash TMDL may achieve compliance with interim and final effluent limitations through progressive installation of BMPs meeting the definition of "full capture" throughout their jurisdictions' drainage areas. Alternatively, Permittees may install "partial capture" devices and/or implement institutional controls to meet their respective interim and final effluent limitations. Where partial capture devices are utilized as the sole trash control measure, the degree of compliance may be demonstrated based upon performance data specific to the jurisdictional area. However, compliance with the final effluent limitation cannot be achieved through the exclusive use of partial capture devices. Where a combination of partial capture devices and institutional controls are used, compliance shall be determined based on the approximation of jurisdiction-specific trash discharges.

58. The Executive Officer will develop a standard reporting form, consistent with these provisions, which shall be used by Permittees to report compliance with the effluent limitations on an annual basis.

60. Pursuant to federal regulations at 40 CFR sections 124.8 and 125.56, a Fact Sheet was prepared to provide the basis for incorporating the Los Angeles River Watershed Trash TMDL into this Order. This Fact Sheet is hereby incorporated by reference into these findings.

F. Implementation

1. The California Environmental Quality Act (CEQA) (Cal. Pub. Resources Code § 21000 *et seq.*) requires that public agencies consider the environmental impacts of the projects they approve for development. CEQA applies to projects that are considered discretionary and does not apply to ministerial projects, which involve the use of established standards or objective measurements. A ministerial project may be made discretionary by adopting local ordinance provisions or imposing conditions to create decision-making discretion in approving the project. In the alternative, Permittees may establish standards and objective criteria administratively for storm water mitigation for ministerial projects. For water quality purposes, the Regional Board considers that all new development and significant redevelopment activity in specified categories, that receive approval or permits from a municipality, are subject to storm water mitigation requirements.

2. The objective of this Order is to protect the beneficial uses of receiving waters in Los Angeles County. To meet this objective, this Order requires that the SQMP specify BMPs that will be implemented to reduce the discharge of pollutants in storm water to the maximum extent practicable. Further, Permittees are to assure that storm water discharges from the MS4 shall neither cause nor contribute to the exceedance of water quality standards and objectives nor create conditions of nuisance in the receiving waters, and that the discharge of non-storm water to the MS4 has been effectively prohibited.

3. The SQMP required in this Order builds upon the programs established in Order Nos. 90-079, and 96-054, consists of the components recommended in the USEPA guidance manual, and was developed with the cooperation of representatives from the regulated community and environmental groups. The SQMP includes provisions that promote customized initiatives, both on a countywide and watershed basis, in developing and implementing cost-effective measures to minimize discharge of pollutants to the receiving water. The various components of the SQMP, taken as a whole rather than individually, are expected to reduce pollutants in storm water and urban runoff to the maximum extent practicable. Provisions of the SQMP are fully enforceable under provisions of this Order.

4. The emphasis of the SQMP is pollution prevention through education, public outreach, planning, and implementation as source control BMPs first and then Structural and Treatment Control BMPs next. Successful implementation of the provisions of the SQMP will require cooperation

and coordination of all public agencies in each Permittee's organization, among Permittees, and with the regulated community.

5. The implementation of a Public Information and Participation Program is a critical component of a storm water management program. An informed and knowledgeable community is critical to the success of a storm water management program since it helps insure the following: (i) greater support for the program as the public gains a greater understanding of the reasons why it is necessary and important, and (ii) greater compliance with the program as the public becomes aware of the personal responsibilities expected of them and others in the community, including the individual actions they can take to protect or improve the quality of area waters.

6. This Order includes a Monitoring Program that incorporates Minimum Levels (MLs) established under the SIP. The SIP's MLs represent the lowest quantifiable concentration for priority toxic pollutants that is measurable with the use of proper method-based analytical procedures and factoring out matrix interference. The SIP's MLs therefore represent the best available science for determining MLs and are appropriate for a storm water monitoring program. The use of MLs allows the detection of toxic priority pollutants at concentrations of concern using recent advances in chemical analytical methods.

7. This Order provides flexibility for Permittees to petition the Regional Board Executive Officer to substitute a BMP under the SQMP with an alternative BMP, if they can provide information and documentation on the effectiveness of the alternative, equal to or greater than the prescribed BMP in meeting the objectives of this Order.

8. This Order contemplates that the Permittees are responsible for considering potential storm water impacts when making planning decisions in order to fulfill the Permittees' CWA requirement to reduce the discharge of pollutants in municipal storm water to the MEP from new development and redevelopment activities. However, the Permittees retain authority to make the final land-use decisions and retain full statutory authority for deciding what land uses are appropriate at specific locations within each Permittee's jurisdiction. This Order and its requirements are not intended to restrict or control local land use decision-making authority.

9. This Order is not intended to prohibit the inspection for or abatement of vectors by the State Department of Health Services or local vector agencies in accordance with Cal. Health and Safety Code § 2270 *et seq*. and §116110 *et seq*. Certain Treatment Control BMPs if not properly designed, operated or maintained may create habitats for vectors (e.g. mosquito and rodents). This Order contemplates that the Permittees will closely cooperate and collaborate with local vector control agencies and the State Department of Health Services for the implementation, operation, and maintenance of Treatment Control BMPs in order to minimize the risk to public health from vector borne diseases.

G. Public Process

1. The Regional Board has notified the Permittees and interested agencies and persons of its intent to issue waste discharge requirements for this discharge, and has provided them with an opportunity to submit their written view and recommendations.

2. The Regional Board, in a public hearing, heard and considered all comments pertaining to the discharge and to the tentative requirements.

3. The Regional Board has conducted public workshops to discuss drafts of the permit. On April 24, 2001, Regional Board staff conducted a workshop outlining the reasoning behind the changes proposed for the new permit and received input from the Permittees and the public regarding those proposed changes. On July 26, 2001, a second public workshop was held at a special Regional Board meeting. The Permittees and the public had another opportunity to express their opinions regarding the proposed changes to the permit in front of the Regional Board members. A significant number of working meetings with the Permittees and other interested parties have occurred throughout the period from the submittal of the ROWD and completion of the tentative draft, in an attempt to incorporate and address all the comments presented.

4. The Los Angeles County Flood Control District, the County of Los Angeles and the other municipalities are co-permittees as defined in 40 CFR 122.26 (b)(1). Los Angeles County Flood Control District will coordinate with the other municipalities and facilitate program implementation. Each Permittee is responsible only for a discharge for which it is the operator.

5. This Order shall serve as a NPDES Permit, pursuant to CWA § 402, or amendments thereto, and shall take effect 50 days from Order adoption provided the Regional Administrator of the USEPA has no objections.

6. The action to adopt an NPDES permit is exempt from the provisions of Chapter 3 of CEQA (Cal. Pub. Resources Code § 21100 *et seq.*), in accordance with CWC § 13389.

7. Pursuant to CWC §13320, any aggrieved party may seek review of this Order by filing a petition with the State Board. A petition must be sent to: State Water Resources Control Board, P.O. Box 100, Sacramento, California, 95812, within 30 days of adoption of the Order by the Regional Board.

8. This Order may be modified or alternatively revoked or reissued prior to its expiration date, in accordance with the procedural requirements of the NPDES program, and the CWC for the issuance of waste discharge requirements.

IT IS HEREBY ORDERED that the Los Angeles County Flood Control District, Los Angeles County, and the Cities of Agoura Hills, Alhambra, Arcadia, Artesia, Azusa, Baldwin Park, Bell,

Bellflower, Bell Gardens, Beverly Hills, Bradbury, Burbank, Calabasas, Carson, Cerritos, Claremont, Commerce, Compton, Covina, Cudahy, Culver City, Diamond Bar, Downey, Duarte, El Monte, El Segundo, Gardena, Glendale, Glendora, Hawaiian Gardens, Hawthorne, Hermosa Beach, Hidden Hills, Huntington Park, Industry, Inglewood, Irwindale, La Cañada Flintridge, La Habra Heights, Lakewood, La Mirada, La Puente, La Verne, Lawndale, Lomita, Los Angeles, Lynwood, Malibu, Manhattan Beach, Maywood, Monrovia, Montebello, Monterey Park, Norwalk, Palos Verdes Estates, Paramount, Pasadena, Pico Rivera, Pomona, Rancho Palos Verdes, Redondo Beach, Rolling Hills, Rolling Hills Estates, Rosemead, San Dimas, San Fernando, San Gabriel, San Marino, Santa Clarita, Santa Fe Springs, Santa Monica, Sierra Madre, Signal Hill, South El Monte, South Gate, South Pasadena, Temple City, Torrance, Vernon, Walnut, West Covina, West Hollywood, Westlake Village, and Whittier, in order to meet the provisions contained in Division 7 of the CWC and regulations adopted thereunder, and the provisions of the CWA, as amended, and regulations and guidelines adopted thereunder, shall comply with the following:

Part 1. DISCHARGE PROHIBITIONS

Part 1. A. The Permittees shall effectively prohibit non-storm water discharges into the MS4 and watercourses, except where such discharges:

1. Are covered by a separate individual or general NPDES permit for non-storm water discharges; or

2. Fall within one of the categories below, and meet all conditions when specified by the Regional Board Executive Officer:

   a) Category A - Natural flow:

      (1) Natural springs and rising ground water;

      (2) Flows from riparian habitats or wetlands;

      (3) Stream diversions, permitted by the State Board; and

      (4) Uncontaminated ground water infiltration [as defined by 40 CFR 35.2005(20)].

   b) Category B - Flows from emergency fire fighting activity.

   c) Category C - Flows incidental to urban activities:

      (1) Reclaimed and potable landscape irrigation runoff;

      (2) Potable drinking water supply and distribution system releases (consistent with American Water Works Association guidelines for dechlorination and suspended solids reduction practices);

      (3) Drains for foundations, footings, and crawl spaces;

      (4) Air conditioning condensate;

(5) Dechlorinated/debrominated swimming pool discharges;

(6) Dewatering of lakes and decorative fountains;

(7) Non-commercial car washing by residents or by non-profit organizations; and

(8) Sidewalk rinsing.

The Regional Board Executive Officer may add or remove categories of non-storm water discharges above. Furthermore, in the event that any of the above categories of non-storm water discharges are determined to be a source of pollutants by the Regional Board Executive Officer, the discharge will no longer be exempt from this prohibition unless the Permittee implements conditions approved by the Regional Board Executive Officer to ensure that the discharge is not a source of pollutants. Notwithstanding the above, the Regional Board Executive Officer may impose additional prohibitions of non-storm water discharges in consideration of antidegradation policies and TMDLs.

Part 1. B. [Intentionally left blank][3,4]

Part 2. RECEIVING WATER LIMITATIONS

1. Discharges from the MS4 that cause or contribute to the violation of Water Quality Standards or water quality objectives are prohibited.

2. Discharges from the MS4 of storm water, or non-storm water, for which a Permittee is responsible for, shall not cause or contribute to a condition of nuisance.

3. The Permittees shall comply with Part 2.1. and 2.2. through timely implementation of control measures and other actions to reduce pollutants in the discharges in accordance with the SQMP and its components and other requirements of this Order including any modifications. The SQMP and its components shall be designed to achieve compliance with receiving water limitations. If exceedances of Water Quality Objectives or Water Quality Standards (collectively, Water Quality Standards) persist, notwithstanding implementation of the SQMP and its components and other requirements of this permit, the Permittee shall assure compliance with discharge prohibitions and receiving water limitations by complying with the following procedure:

   a) Upon a determination by either the Permittee or the Regional Board that discharges are causing or contributing to an exceedance of an applicable Water Quality Standard, the Permittee shall promptly notify and thereafter submit a Receiving Water Limitations (RWL) Compliance Report (as

[3] [Intentionally left blank]

[4] [Intentionally left blank]

described in the Program Reporting Requirements, Section I of the Monitoring and Reporting Program) to the Regional Board that describes 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 exceedances of Water Quality Standards. This RWL Compliance Report may be incorporated in the annual Storm Water Report and Assessment unless the Regional Board directs an earlier submittal. The RWL Compliance Report shall include an implementation schedule. The Regional Board may require modifications to the RWL Compliance Report.

b) Submit any modifications to the RWL Compliance Report required by the Regional Board within 30 days of notification.

c) Within 30 days following the approval of the RWL Compliance Report, the Permittee shall revise the SQMP and its components and monitoring program to incorporate the approved modified BMPs that have been and will be implemented, an implementation schedule, and any additional monitoring required.

d) Implement the revised SQMP and its components and monitoring program according to the approved schedule.

4. So long as the Permittee has complied with the procedures set forth above and is implementing the revised SQMP and its components, the Permittee 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 develop additional BMPs.

5. [Intentionally left blank][5]

6. During Summer Dry Weather there shall be no discharges of bacteria from MS4s into Marina del Rey Harbor Basins D, E, or F, including Mothers' Beach that cause or contribute to exceedances of the applicable bacteria objectives. The applicable bacteria objectives include both the single sample and geometric mean bacteria objectives set to protect the Water Contact Recreation (REC-1) beneficial use, as set forth in the Basin Plan.[6]

[5] [Intentionally left blank]

[6] Samples collected for determining compliance with the receiving water limitations of Part 2.6 shall be processed in accordance with the sampling procedures and analytical methodology set forth in the *Marina del Rey Harbor Mothers' Beach and Back Basins Bacterial TMDL Coordinated Shoreline Monitoring Plan* dated April 13, 2007 and the Monitoring and Reporting Program CI 6948.

Part 3. STORM WATER QUALITY MANAGEMENT PROGRAM (SQMP) IMPLEMENTATION

A. General Requirements

1. Each Permittee shall, at a minimum, implement the SQMP. The SQMP is an enforceable element of this Order. The SQMP shall be implemented no later than February 1, 2002, unless a later date has been specified for a particular provision in this Order.

2. The SQMP shall, at a minimum, comply with the applicable storm water program requirements of 40 CFR 122.26(d)(2). The SQMP and its components shall be implemented so as to reduce the discharges of pollutants in storm water to the MEP.

3. Each Permittee shall implement additional controls, where necessary, to reduce the discharges of pollutants in storm water to the MEP.

4. Permittees that modify the countywide SQMP (i.e., implement additional controls, implement different controls than described in the countywide SQMP, or determine that certain BMPs in the countywide SQMP are not applicable in the area under its jurisdiction), shall develop a local SQMP, no later than August 1, 2002. The local SQMP shall be customized to reflect the conditions in the area under the Permittee's jurisdiction and shall specify activities being implemented under the appropriate elements described in the countywide SQMP.

B. Best Management Practice Implementation

The Permittees shall implement or require the implementation of the most effective combination of BMPs for storm water/urban runoff pollution control. When implemented, BMPs are intended to result in the reduction of pollutants in storm water to the MEP.

C. Revision of the Storm Water Quality Management Program

The Permittees shall revise the SQMP, at the direction of the Regional Board Executive Officer, to incorporate program implementation amendments so as to comply with regional, watershed specific requirements, and/or waste load allocations developed and approved pursuant to the process for the designation and implementation of Total Maximum Daily Loads (TMDLs) for impaired water bodies.

D. Designation and Responsibilities of the Principal Permittee

The Los Angeles County Flood Control District is hereby designated as the Principal Permittee. As such, the Principal Permittee shall:

1. Coordinate and facilitate activities necessary to comply with the requirements of this Order, but is not responsible for ensuring compliance of any individual Permittee;

2. Coordinate permit activities among Permittees and act as liaison between Permittees and the Regional Board on permitting issues;

3. Provide personnel and fiscal resources for the necessary updates of the SQMP and its components;

4. Provide technical and administrative support for committees that will be organized to implement the SQMP and its components;

5. Convene the Watershed Management Committees (WMCs) constituted pursuant to Part F, below, upon designation of representatives;

6. Implement the Countywide Monitoring Program required under this Order and evaluate, assess and synthesize the results of the monitoring program;

7. Provide personnel and fiscal resources for the collection, processing and submittal to the Regional Board of annual reports and summaries of other reports required under the SQMP; and

8. Comply with the "Responsibilities of the Permittees" in Part 3.E., below.

E. Responsibilities of the Permittees

Each Permittee is required to comply with the requirements of this Order applicable to discharges within its boundaries (see Findings D.1, D.2. and D.3.) and not for the implementation of the provisions applicable to the Principal Permittee or other Permittees. Each Permittee shall, within its geographic jurisdiction:

1. Comply with the requirements of the SQMP and any modifications thereto;

2. Coordinate among its internal departments and agencies, as appropriate, to facilitate the implementation of the requirements of the SQMP applicable to such Permittee in an efficient and cost-effective manner;

3. Designate a technically knowledgeable representative to the appropriate WMC;

4. Participate in intra-agency coordination (e.g. Fire Department, Building and Safety, Code Enforcement, Public Health, etc.) necessary to successfully implement the provisions of this Order and the SQMP.

5. Prepare an annual Budget Summary of expenditures applied to the storm water management program. This summary shall identify the storm water budget for the following year, using estimated percentages and written explanations where necessary, for the specific categories noted below:

   a) Program management
      - Administrative costs

   b) Program Implementation

Where information is available, provide an estimated percent breakdown of expenditures for the categories below:

- Illicit connection/illicit discharge
- Development planning
- Development construction
- Construction inspection activities
- Industrial/Commercial inspection activities
- Public Agency Activities
  - Maintenance of Structural BMPs and Treatment Control BMPs
  - Municipal Street Sweeping
  - Catch basin clean-up
  - Trash collection
  - Capital costs

c) Public Information and Participation

d) Monitoring Program

e) Miscellaneous Expenditures

6. Each Permittee, in addition to the Budget Summary, shall report any supplemental dedicated budgets for the same categories.

F. Watershed Management Committees (WMCs)

1. Each WMC shall be comprised of a voting representative from each Permittee in the WMA.

2. The WMC's chair and secretary shall be chosen by the WMC upon Order adoption and on an annual basis, thereafter. In the absence of volunteer Permittee(s) for the positions, the Principal Permittee shall assume those roles until the WMC chooses members of the committee for the positions.

3. Each WMC shall:

   a) Facilitate cooperation and exchange of information among Permittees;

   b) Establish additional goals and objectives and associated deadlines for the WMA, as the program implementation progresses;

   c) Prioritize pollution control efforts based on beneficial use impairment(s), watershed characteristics and analysis of results from studies and the monitoring program;

   d) Develop and/or update and monitor the adequate implementation, on an annual basis, of the tasks identified for the WMA;

   e) Assess the effectiveness of, prepare revisions for, and recommend appropriate changes to the SQMP and its components;

f) Continue to prioritize the Industrial/Commercial critical sources for investigation, outreach and follow-up; and

g) Meet four times per year and, as necessary.

G. Legal Authority

1. Permittees shall possess the necessary legal authority to prohibit non-storm water discharges to the storm drain system, including, but not limited to:

   a) Illicit discharges and illicit connections and require removal of illicit connections;

   b) The discharge of wash waters to the MS4 from the cleaning of gas stations, auto repair garages, or other types of automotive service facilities;

   c) The discharge of runoff to the MS4 from mobile auto washing, steam cleaning, mobile carpet cleaning, and other such mobile commercial and industrial operations;

   d) The discharge of runoff to the MS4 from areas where repair of machinery and equipment which are visibly leaking oil, fluid or antifreeze, is undertaken;

   e) The discharge of runoff to the MS4 from storage areas of materials containing grease, oil, or other hazardous substances, and uncovered receptacles containing hazardous materials;

   f) The discharge of chlorinated/ brominated swimming pool water and filter backwash to the MS4;

   g) The discharge of runoff from the washing of toxic materials from paved or unpaved areas to the MS4;

   h) Washing impervious surfaces in industrial/commercial areas that results in a discharge of runoff to the MS4;

   i) The discharge of concrete or cement laden wash water from concrete trucks, pumps, tools, and equipment to the MS4; and

   j) Dumping or disposal of materials into the MS4 other than storm water, such as:

      (1) Litter, landscape debris and construction debris;

      (2) Any state or federally banned or unregistered pesticides;

      (3) Food and food processing wastes; and

      (4) Fuel and chemical wastes, animal wastes, garbage, batteries, and other materials that have potential adverse impacts on water quality.

2. The Permittees shall possess adequate legal authority to:

   a) Require persons within their jurisdiction to comply with conditions in Permittees' ordinances, permits, contracts, model programs, or orders (i.e. hold dischargers to its MS4 accountable for their contributions of pollutants and flows);

   b) Utilize enforcement mechanisms to require compliance with Permittees ordinances, permits, contracts, or orders;

   c) Control pollutants, including potential contribution, in discharges of storm water runoff associated with industrial activities (including construction activities) to its MS4 and control the quality of storm water runoff from industrial sites (including construction sites). This requirement applies to Source Control, and Treatment Control BMPs;

   d) Carry out all inspection, surveillance and monitoring procedures necessary to determine compliance and non-compliance with permit conditions, including the prohibition of illicit discharges to the MS4. Permittees must possess authority to enter, sample, inspect, review and copy records, and require regular reports from industrial facilities (including construction sites) discharging polluted or with the potential to discharge polluted storm water runoff into its MS4;

   e) Require the use of BMPs to prevent or reduce the discharge of pollutants to MS4s to MEP; and

   f) Require that Treatment Control BMPs be properly operated and maintained to prevent the breeding of vectors.

3. Each Permittee shall, no later than November 1, 2002, amend and adopt (if necessary), a Permittee-specific storm water and urban runoff ordinance to enforce all requirements of this permit.

4. Each Permittee shall submit no later than December 2, 2002, a new or updated statement by its legal counsel that the Permittee has obtained all necessary legal authority to comply with this Order through adoption of ordinances and/or municipal code modifications.

Part 4. SPECIAL PROVISIONS

Maximum Extent Practicable Standard

This permit, and the provisions herein, are intended to develop, achieve, and implement a timely, comprehensive, cost-effective storm water pollution control program to reduce the discharge of pollutants in storm water to the MEP from the permitted areas in the County of Los Angeles to the waters of the State.

A. General Requirements

1. Best Management Practice Substitution

The Regional Board Executive Officer may approve any site-specific BMP substitution upon petition by a Permittee(s), if the Permittee can document that:

a) The proposed alternative BMP or program will meet or exceed the objective of the original BMP or program in the reduction of storm water pollutants; or

b) The fiscal burden of the original BMP or program is substantially greater than the proposed alternative and does not achieve a substantially greater improvement in storm water quality; and,

c) The proposed alternative BMP or program will be implemented within a similar period of time.

B. Public Information and Participation Program (PIPP)

The Principal Permittee shall implement a Public Information and Participation Program (PIPP) that includes, but is not limited to, the requirements listed in this section. The Principal Permittee shall be responsible for developing and implementing the Public Education Program, as described in the SQMP, and shall coordinate with Permittees to implement specific requirements.

The objectives of the PIPP are as follows:

- To measurably increase the knowledge of the target audiences regarding the MS4, the impacts of storm water pollution on receiving waters, and potential solutions to mitigate the problems caused;
- To measurably change the waste disposal and runoff pollution generation behavior of target audiences by encouraging implementation of appropriate solutions; and
- To involve and engage socio-economic groups and ethnic communities in Los Angeles County to participate in mitigating the impacts of storm water pollution.

The Principal Permittee shall convene an advisory committee to provide input and assistance in meeting the goals and objectives of the public education campaign. The advisory committee shall be consulted during the process of developing the PIPP campaign, and shall provide comments and advice during the process of preparing a Request For Proposals for a storm water public education contractor. The committee may participate as a part of a working group that evaluates contractor proposals and other tasks as appropriate. The committee shall be comprised of representatives of the environmental community, Permittee cities, Regional Board staff, and experts in the fields of public education and marketing. The Principal Permittee shall ensure that the committee meets at least once a year.

1. Residential Program

a) "No Dumping" Message

Each Permittee shall mark all storm drain inlets that they own with a legible “no dumping” message. In addition, signs with prohibitive language discouraging illegal dumping must be posted at designated public access points to creeks, other relevant water bodies, and channels no later than February 2, 2004. Signage and storm drain messages shall be legible and maintained as necessary during the term of the permit.

b) Countywide Hotline

The 888-CLEAN-LA hotline will serve as the general public reporting contact for reporting clogged catch basin inlets and illicit discharges/dumping, faded or lack of catch basin stencils, and general storm water management information. Each Permittee may establish its own hotline if preferred. Permittees shall include this information, updated when necessary, in public information, and the government pages of the telephone book, as they are developed or published. The Principal Permittee shall compile a list of the general public reporting contacts from all Permittees and make this information available on the web site (888CleanLA.com) and upon request. Permittees shall provide the Principal Permittee with their reporting contacts no later than March 1, 2002. Permittees are responsible for providing current, updated information to the Principal Permittee.

c) Outreach and Education

(1) The Principal Permittee shall continue to implement the following activities that were components of the first five-year PIPP:

(i) Advertising;

(ii) Media relations;

(iii) Public service announcements;

(iv) "How To" instructional material distributed in a targeted and activity-related manner;

(v) Corporate, community association, environmental organization and entertainment industry tie-ins; and

(vi) Events targeted to specific activities and population subgroups.

(2) The Principal Permittee shall develop a strategy to educate ethnic communities and businesses through culturally effective methods. Details of this strategy should be incorporated into the Public Education Program, and implemented, no later than February 3, 2003.

(3) The Principal Permittee shall enhance the existing outreach efforts to residents and businesses related to the proper disposal of cigarette butts.

(4) Each Permittee shall conduct educational activities within its jurisdiction and participate in countywide events.

(5) The Principal Permittee shall organize Public Outreach Strategy meetings for Permittees on a quarterly basis, beginning no later than May 1, 2002. The Principal Permittee shall provide guidance for Permittees to augment the countywide outreach and education program. Permittees shall coordinate regional and local outreach and education to reduce duplication of efforts. Permittees are encouraged to include other interested parties in the outreach strategy to strengthen and coordinate educational efforts.

(6) The Principal Permittee shall ensure that a minimum of 35 million impressions per year are made on the general public about storm water quality via print, local TV access, local radio, or other appropriate media.

(7) The Principal Permittee, in cooperation with the Permittees, shall provide schools within each School District in the County with materials, including, but not limited to, videos, live presentations, and other information necessary to educate a minimum of 50 percent of all school children (K-12) every 2 years on storm water pollution.

(8) Permittees shall provide the contact information for their appropriate staff responsible for storm water public education activities to the Principal Permittee no later than April 1, 2002, and changes to contact information no later than 30 days after a change occurs.

(9) The Principal Permittee shall develop a strategy to measure the effectiveness of in-school educational programs. The protocol shall include assessment of students' knowledge of storm water pollution problems and solutions before and after educational efforts are conducted. The protocol shall be developed and submitted to the Regional Board Executive Officer for approval no later than May 1, 2002. It shall be implemented upon approval.

(10) In order to ensure that the PIPP is demonstrably effective in changing the behavior of the public, the Principal Permittee shall develop a behavioral change assessment strategy no later than May 1, 2002. The strategy shall be developed based on sociological data and studies (such

as the County Segmentation Study). The Principal Permittee shall submit the assessment strategy to the Regional Board Executive Office for approval. It shall be implemented on approval.

d) Pollutant-Specific Outreach

The Principal Permittee, in cooperation with Permittees, shall coordinate to develop outreach programs that focus on the watershed-specific pollutants listed in Table 1 no later than February 3, 2003. Metals may be appropriately addressed through the Industrial/Commercial Facilities Program (e.g. distribute education materials on appropriate BMPs for metal waste management to facilities that have been identified as a potential source, such as metal fabricating facilities). Region-wide pollutants may be included in the Principal Permittee's mass media outreach efforts.

Table 1.

Watershed	***Target Pollutants for Outreach***
Ballona Creek	Trash, Indicator Bacteria, Metals, PAHs
Malibu Creek	Trash, Nutrients (Nitrogen), Indicator Bacteria, Sediments
Los Angeles River	Trash, Nutrients (Nitrogen), Indicator Bacteria, Metals, Pesticides, PAHs
San Gabriel River	Trash, Nutrients (Nitrogen), Indicator Bacteria, Metals
Santa Clara River	Nutrients (Nitrogen), Coliform
Dominguez Channel	Trash, Indicator Bacteria, PAHs

Each Permittee shall make outreach materials available to the general public and target audiences, such as schools, community groups, contractors and developers, and at appropriate public counters and events. Outreach material shall include information on pollutants, sources of concern, and source abatement measures.

2. Businesses Program

a) Corporate Outreach

The Principal Permittee shall develop and implement a Corporate Outreach program to educate and inform corporate managers about storm water regulations. The program shall target RGOs and restaurant chains. At a minimum, this program shall include:

(1) Conferring with corporate management to explain storm water regulations;

(2) Distribution and discussion of educational material regarding storm water pollution and BMPs, and provide

managers with suggestions to facilitate employee compliance with storm water regulations.

Corporate Outreach for all RGOs and restaurant chain corporations shall be conducted not less than twice during the permit term, with the first outreach contact to begin no later than February 3, 2003.

b) Business Assistance Program

The Principal Permittee and Permittees may implement a Business Assistance Program to provide technical resource assistance to small businesses to advise them on BMPs implementation to reduce the discharge of pollutants in storm water runoff. Programs may include:

(1) On-site technical assistance or consultation via telephone to identify and implement storm water pollution prevention methods and best management practices; and

(2) Making available, distributing, and discussing of applicable BMP and educational materials.

C. Industrial/Commercial Facilities Control Program

Each Permittee shall require implementation of pollutant reduction and control measures at industrial and commercial facilities, with the objective of reducing pollutants in storm water runoff. Except as specified in other sections of this Order, pollutant reduction and control measures can be used alone or in combination, and can include Structural and Source Control BMPs, and operation and maintenance procedures, which can be applied before, during, and/or after pollution generating activities. At a minimum, the Industrial/Commercial Facilities Control Program shall include requirements to: (1) track, (2) inspect, and (3) ensure compliance at industrial and commercial facilities that are critical sources of pollutants in storm water.

1. Track Critical Sources

a) Each Permittee shall maintain a watershed-based inventory or database of all facilities within its jurisdiction that are critical sources of storm water pollution. Critical sources to be tracked are summarized below, and also specified in Attachment B:

(1) Commercial Facilities

- restaurants;
- automotive service facilities; and
- RGOs and automotive dealerships.

(2) USEPA Phase I Facilities (Tier 1 and 2)

(3) Other Federally-mandated Facilities [as specified in 40 CFR 122.26(d)(2)(iv)(C)]

- municipal landfills;
- hazardous waste treatment, disposal, and recovery facilities; and
- facilities subject to SARA Title III (also known as EPCRA).

b) Each Permittee shall include the following minimum fields of information for each industrial and commercial facility:

- name of facility and name of owner/operator;
- address;
- coverage under the GIASP or other individual or general NPDES permits; and
- a narrative description including SIC codes that best reflects the industrial activities at and principal products of each facility.

The Regional Board encourages Permittees to add other fields of information, such as material usage and/or industrial output, and discrepancies between SIC Code designations (as reported by facility operators) and the actual type of industrial activity has the potential to pollute storm water. In addition, the Regional Board recommends use of an automated database system, such as a Geographical Information System (GIS) or Internet-based system; however, this is not required.

c) Each Permittee shall update its inventory of critical sources at least annually. The update may be accomplished through collection of new information obtained through field activities or through other readily available intra-agency informational databases (e.g. business licenses, pretreatment permits, sanitary sewer hook-up permits).

2. Inspect Critical Sources

Each Permittee shall inspect all facilities in the categories and at a level and frequency as specified in the following subsections.

a) Commercial Facilities

(1) Restaurants

Frequency of Inspections: Twice during the 5-year term of the Order, provided that the first inspection occurs no later than August 1, 2004, and that there is a minimum interval of one year in between the first compliance inspection and the second compliance inspection.

Level of inspections: Each Permittee, in cooperation with its appropriate department (such as health or public works), shall inspect all restaurants within its jurisdiction to confirm that storm water BMPs are being effectively

implemented in compliance with State law, County and municipal ordinances, Regional Board Resolution 98-08, and the SQMP. At each restaurant, inspectors shall verify that the restaurant operator:

- has received educational materials on storm water pollution prevention practices;
- does not pour oil and grease or oil and grease residue onto a parking lot, street or adjacent catch basin;
- keeps the trash bin area clean and trash bin lids closed, and does not fill trash bins with washout water or any other liquid;
- does not allow illicit discharges, such as discharge of washwater from floormats, floors, porches, parking lots, alleys, sidewalks and street areas (in the immediate vicinity of the establishment), filters or garbage/trash containers;
- removes food waste, rubbish or other materials from parking lot areas in a sanitary manner that does not create a nuisance or discharge to the storm drain.

(2) Automotive Service Facilities

Frequency of Inspections: Twice during the 5-year term of the Order, provided that the first inspection occurs no later than August 1, 2004, and that there is a minimum interval of one year in between the first compliance inspection and the second compliance inspection.

Level of inspections: Each Permittee shall inspect all automotive service facilities within its jurisdiction to confirm that storm water BMPs are effectively implemented in compliance with County and municipal ordinances, Regional Board Resolution 98-08, and the SQMP. At each automotive service facility, inspectors shall verify that each operator:

- maintains the facility area so that it is clean and dry and without evidence of excessive staining;
- implements housekeeping BMPs to prevent spills and leaks;
- properly discharges wastewaters to a sanitary sewer and/or contains wastewaters for transfer to a legal point of disposal;
- is aware of the prohibition on discharge of non-storm water to the storm drain;
- properly manages raw and waste materials including proper disposal of hazardous waste;

- protects outdoor work and storage areas to prevent contact of pollutants with rainfall and runoff;
- labels, inspects, and routinely cleans storm drain inlets that are located on the facility's property; and
- trains employees to implement storm water pollution prevention practices.

(3) Retail Gasoline Outlets and Automotive Dealerships

Frequency of Inspection: Twice during the 5-year term of the Order, provided that the first inspection occurs no later than August 1, 2004, and that there is a minimum interval of one year in between the first compliance inspection and the second compliance inspection.

Level of Inspection: Each Permittee shall confirm that BMPs are being effectively implemented at each RGO and automotive dealership within its jurisdiction, in compliance with the SQMP, Regional Board Resolution 98-08, and the Stormwater Quality Task Force Best Management Practice Guide for RGOs. At each RGO and automotive dealership, inspectors shall verify that each operator:

- routinely sweeps fuel-dispensing areas for removal of litter and debris, and keeps rags and absorbents ready for use in case of leaks and spills;
- is aware that washdown of facility area to the storm drain is prohibited;
- is aware of design flaws (such as grading that doesn't prevent run-on, or inadequate roof covers and berms), and that equivalent BMPs are implemented;
- inspects and cleans storm drain inlets and catch basins within each facility's boundaries no later than October 1st of each year;
- posts signs close to fuel dispensers, which warn vehicle owners/operators against "topping off" of vehicle fuel tanks and installation of automatic shutoff fuel dispensing nozzles;
- routinely checks outdoor waste receptacle and air/water supply areas, cleans leaks and drips, and ensures that only watertight waste receptacles are used and that lids are closed; and
- trains employees to properly manage hazardous materials and wastes as well as to implement other storm water pollution prevention practices.

b) Phase I Facilities

Permittees need not inspect facilities that have been inspected by the Regional Board within the past 24 months. For the remaining Phase I facilities that the Regional Board has not inspected, each Permittee shall conduct compliance inspections as specified below.

Frequency of Inspection

Facilities in Tier 1 Categories: Twice during the 5-year term of the Order, provided that the first inspection occurs no later than August 1, 2004, and that there is a minimum interval of one year in between the first compliance inspection and the second compliance inspection.

Facilities in Tier 2 Categories: Twice during the 5-year term of the permit, provided that the first inspection occurs no later than August 1, 2004. Permittees need not perform additional inspections at those facilities determined to have no risk of exposure of industrial activity to storm water. For those facilities that do have exposure of industrial activities to storm water, a Permittee may reduce the frequency of additional compliance inspections to once every 5 years, provided that the Permittee inspects at least 20% of the facilities in Tier 2 each year.

Level of Inspection: Each Permittee shall confirm that each operator:

- has a current Waste Discharge Identification (WDID) number for facilities discharging storm water associated with industrial activity, and that a Storm Water Pollution Prevention Plan is available on-site, and
- is effectively implementing BMPs in compliance with County and municipal ordinances, Regional Board Resolution 98-08, and the SQMP.

c) Other Federally-mandated Facilities

Frequency of Inspection: Twice during the 5-year term of the Order, provided that the first inspection occurs no later than August 1, 2004, and that there is a minimum interval of one year in between the first compliance inspection and the second compliance inspection.

Level of Inspection: Each Permittee shall confirm that each operator:

- has a current Waste Discharge Identification (WDID) number for facilities discharging storm water associated with industrial activity, and that a Storm Water Pollution Prevention Plan is available on-site, and
- is effectively implementing BMPs in compliance with County and municipal ordinances, Regional Board Resolution 98-08, and the SQMP.

3. Ensure Compliance of Critical Sources

a) **BMP Implementation:** In the event that a Permittee determines that a BMP specified by the SQMP or Regional Board Resolution 98-08 is infeasible at any site, that Permittee shall require implementation of other BMPs that will achieve the equivalent reduction of pollutants in the storm water discharges. Likewise, for those BMPs that are not adequate to achieve water quality objectives, Permittees may require additional site-specific controls, such as Treatment Control BMPs.

b) **Environmentally Sensitive Areas and Impaired Waters:** For critical sources that are in ESAs or that are tributary to CWA § 303(d) impaired water bodies, Permittees shall consider requiring operators to implement additional controls to reduce pollutants in storm water runoff that are causing or contributing to the exceedences of Water Quality Objectives.

c) **Progressive Enforcement:** Each Permittee shall implement a progressive enforcement policy to ensure that facilities are brought into compliance with all storm water requirements within a reasonable time period as specified below.

(1) In the event that a Permittee determines, based on an inspection conducted above, that an operator has failed to adequately implement all necessary BMPs, that Permittee shall take progressive enforcement action which, at a minimum, shall include a follow-up inspection within 4 weeks from the date of the initial inspection.

(2) In the event that a Permittee determines that an operator has failed to adequately implement BMPs after a follow-up inspection, that Permittee shall take further enforcement action as established through authority in its municipal code and ordinances or through the judicial system.

(3) Each Permittee shall maintain records, including inspection reports, warning letters, notices of violations, and other enforcement records, demonstrating a good faith effort to bring facilities into compliance.

d) Interagency Coordination

(1) **Referral of Violations of the SQMP, Regional Board Resolution 98-08, and Municipal Storm Water Ordinances:** A Permittee may refer a violation(s) to the Regional Board provided that that Permittee has made a good faith effort of progressive enforcement. At a minimum, a Permittee's good faith effort must include documentation of:

- Two follow-up inspections, and
- Two warning letters or notices of violation.

(2) **Referral of Violations of the GIASP, including Requirements to File a Notice of Intent:** For those facilities in violation of the GIASP, Permittees may escalate referral of such violations to the Regional Board after one inspection and one written notice to the operator regarding the violation. In making such referrals, Permittees shall include, at a minimum, the following documentation:

- Name of the facility;
- Operator of the facility;
- Owner of the facility;
- Industrial activity being conducted at the facility that is subject to the GIASP; and
- Records of communication with the facility operator regarding the violation, which shall include at least an inspection report and one written notice of the violation.

Permittees shall, at a minimum, make such referrals on a quarterly basis.

(3) **Investigation of Complaints Regarding Facilities – Transmitted by the Regional Board Staff:** Each Permittee shall initiate, within one business day, investigation of complaints (other than non-storm water discharges) regarding facilities within its jurisdiction. The initial investigation shall include, at a minimum, a limited inspection of the facility to confirm the complaint to determine if the facility is effectively complying with the SQMP and municipal storm water/urban runoff ordinances, and to oversee corrective action.

(4) **Support of Regional Board Enforcement Actions:** As directed by the Regional Board Executive Officer, Permittees shall support Regional Board enforcement actions by: assisting in identification of current owners, operators, and lessees of facilities; providing staff, when available, for joint inspections with Regional Board

inspectors; appearing as witnesses in Regional Board enforcement hearings; and providing copies of inspection reports and other progressive enforcement documentation.

(5) **Participation in a Task Force:** The Permittees, Regional Board, and other stakeholders may form a Storm Water Task Force, the purpose of which is to communicate concerns regarding special cases of storm water violations by industrial and commercial facilities and to develop a coordinated approach to enforcement action.

D. Development Planning Program

The Permittees shall implement a development-planning program that will require all Planning Priority development and Redevelopment projects to:

- Minimize impacts from storm water and urban runoff on the biological integrity of Natural Drainage Systems and water bodies in accordance with requirements under CEQA (Cal. Pub. Resources Code § 21100), CWC § 13369, CWA § 319, CWA § 402(p), CWA § 404, CZARA § 6217(g), ESA § 7, and local government ordinances ;
- Maximize the percentage of pervious surfaces to allow percolation of storm water into the ground;
- Minimize the quantity of storm water directed to impervious surfaces and the MS4;
- Minimize pollution emanating from parking lots through the use of appropriate Treatment Control BMPs and good housekeeping practices;
- Properly design and maintain Treatment Control BMPs in a manner that does not promote the breeding of vectors; and
- Provide for appropriate permanent measures to reduce storm water pollutant loads in storm water from the development site.

1. Peak Flow Control

The Permittees shall control post-development peak storm water runoff discharge rates, velocities, and duration (peak flow control) in Natural Drainage Systems (i.e., mimic pre-development hydrology) to prevent accelerated stream erosion and to protect stream habitat. Natural Drainage Systems are located in the following areas:

a) Malibu Creek;

b) Topanga Canyon Creek;

c) Upper Los Angeles River;

d) Upper San Gabriel River;

e) Santa Clara River; and

f) Los Angeles County Coastal streams (see Basin Plan Table 2-1).

The Principal Permittee in consultation with Permittees shall develop numerical criteria for peak flow control, based on the results of the Peak Discharge Impact Study (see Monitoring Program Section II.I).

Each Permittee shall, no later than February 1, 2005, implement numerical criteria for peak flow control.

A Permittee or group of Permittees may substitute for the countywide peak flow control criteria with a Hydromodification Control Plan (HCP), on approval by the Regional Board, in the following circumstances:

(1) Stream or watershed-specific conditions indicate the need for a different peak flow control criteria, and the alternative numerical criteria is developed through the application of hydrologic modeling and supporting field observations; or

(2) A watershed-wide plan has been developed for implementation of control measures to reduce erosion and stabilize drainage systems on a watershed basis.

2. Standard Urban Storm Water Mitigation Plans (SUSMPs)

a) Each Permittee shall amend codes and ordinances not later than August 1, 2002 to give legal effect to SUSMP changes contained in this Order. Changes to SUSMP requirements shall take effect not later than September 2, 2002.

b) Each Permittee shall require that a single-family hillside home:

(1) Conserve natural areas;

(2) Protect slopes and channels;

(3) Provide storm drain system stenciling and signage;

(4) Divert roof runoff to vegetated areas before discharge unless the diversion would result in slope instability; and

(5) Direct surface flow to vegetated areas before discharge unless the diversion would result in slope instability.

c) Each Permittee shall require that a SUSMP as approved by the Regional Board in Board Resolution No. R 00-02 be implemented for the following categories of developments:

(1) Ten or more unit homes (includes single family homes, multifamily homes, condominiums, and apartments);

(2) A 100,000 or more square feet of impervious surface area industrial/ commercial development;

(3) Automotive service facilities (SIC 5013, 5014, 5541, 7532-7534, and 7536-7539);

(4) Retail gasoline outlets;

(5) Restaurants (SIC 5812);

(6) Parking lots 5,000 square feet or more of surface area or with 25 or more parking spaces; and

(7) Redevelopment projects in subject categories that meet Redevelopment thresholds.

d) Each Permittee shall submit an ESA Delineation Map for its jurisdictional boundary, based on the Regional Board's ESA Definition, no later than June 3, 2002, for approval by the Regional Board Executive Officer in consultation with the California Department of Fish and Game, and the California Coastal Commission.

e) Each Permittee shall require the implementation of SUSMP provisions no later than September 2, 2002, for all projects located in or directly adjacent to or discharging directly to an ESA, where the development will:

(1) Discharge storm water and urban runoff that is likely to impact a sensitive biological species or habitat; and

(2) Create 2,500 square feet or more of impervious surface area.

3. Numerical Design Criteria

The Permittees shall require that post-construction Treatment Control BMPs incorporate, at a minimum, either a volumetric or flow based treatment control design standard, or both, as identified below to mitigate (infiltrate, filter or treat) storm water runoff:

a) Volumetric Treatment Control BMP

(1) The 85th percentile 24-hour runoff event determined as the maximized capture storm water volume for the area, from the formula recommended in *Urban Runoff Quality Management, WEF Manual of Practice No. 23/ ASCE Manual of Practice No. 87, (1998*); or

(2) The volume of annual runoff based on unit basin storage water quality volume, to achieve 80 percent or more volume treatment by the method recommended in *California Stormwater Best Management Practices Handbook – Industrial/ Commercial,* (1993); or

(3) The volume of runoff produced from a 0.75 inch storm event, prior to its discharge to a storm water conveyance system; or

(4) The volume of runoff produced from a historical-record based reference 24-hour rainfall criterion for "treatment" (0.75 inch average for the Los Angeles County area) that achieves approximately the same reduction in pollutant loads achieved by the 85th percentile 24-hour runoff event.

b) Flow Based Treatment Control BMP

(1) The flow of runoff produced from a rain event equal to at least 0.2 inches per hour intensity; or

(2) The flow of runoff produced from a rain event equal to at least two times the 85th percentile hourly rainfall intensity for Los Angeles County; or

(3) The flow of runoff produced from a rain event that will result in treatment of the same portion of runoff as treated using volumetric standards above.

4. Applicability of Numerical Design Criteria

The Permittees shall require the following categories of Planning Priority Projects to design and implement post-construction treatment controls to mitigate storm water pollution:

a) Single-family hillside residential developments of one acre or more of surface area;

b) Housing developments (includes single family homes, multifamily homes, condominiums, and apartments) of ten units or more;

c) A 100,000 square feet or more impervious surface area industrial/ commercial development;

d) Automotive service facilities (SIC 5013, 5014, 5541, 7532-7534 and 7536-7539) [5,000 square feet or more of surface area];

e) Retail gasoline outlets [5,000 square feet or more of impervious surface area and with projected Average Daily Traffic (ADT) of 100 or more vehicles]. Subsurface Treatment Control BMPs which may endanger public safety (i.e., create an explosive environment) are considered not appropriate;

f) Restaurants (SIC 5812) [5,000 square feet or more of surface area];

g) Parking lots 5,000 square feet or more of surface area or with 25 or more parking spaces;

h) Projects located in, adjacent to or discharging directly to an ESA that meet threshold conditions identified above in 2.e; and

i) Redevelopment projects in subject categories that meet Redevelopment thresholds.

5. Not later than March 10, 2003, each Permittee shall require the implementation of SUSMP and post-construction control requirements for the industrial/commercial development category to projects that disturb one acre or more of surface area.

6. Site Specific Mitigation

Each Permittee shall, no later than September 2, 2002, require the implementation of a site-specific plan to mitigate post-development storm water for new development and redevelopment not requiring a SUSMP but which may potentially have adverse impacts on post-development storm water quality, where one or more of the following project characteristics exist:

a) Vehicle or equipment fueling areas;

b) Vehicle or equipment maintenance areas, including washing and repair;

c) Commercial or industrial waste handling or storage;

d) Outdoor handling or storage of hazardous materials;

e) Outdoor manufacturing areas;

f) Outdoor food handling or processing;

g) Outdoor animal care, confinement, or slaughter; or

h) Outdoor horticulture activities.

7. Redevelopment Projects

The Permittees shall apply the SUSMP, or site specific requirements including post-construction storm water mitigation to all Planning Priority Projects that undergo significant Redevelopment in their respective categories.

a) Significant Redevelopment means land-disturbing activity that results in the creation or addition or replacement of 5,000 square feet or more of impervious surface area on an already developed site.

Where Redevelopment results in an alteration to more than fifty percent of impervious surfaces of a previously existing development, and the existing development was not subject to post development storm water quality control requirements, the entire project must be mitigated. Where Redevelopment results in an alteration to less than fifty percent of impervious surfaces of

a previously existing development, and the existing development was not subject to post development storm water quality control requirements, only the alteration must be mitigated, and not the entire development.

b) Redevelopment does not include routine maintenance activities that are conducted to maintain original line and grade, hydraulic capacity, original purpose of facility or emergency redevelopment activity required to protect public health and safety.

c) Existing single family structures are exempt from the Redevelopment requirements.

8. Maintenance Agreement and Transfer

Each Permittee shall require that all developments subject to SUSMP and site specific plan requirements provide verification of maintenance provisions for Structural and Treatment Control BMPs, including but not limited to legal agreements, covenants, CEQA mitigation requirements, and or conditional use permits. Verification at a minimum shall include:

a) The developer's signed statement accepting responsibility for maintenance until the responsibility is legally transferred; and either

b) A signed statement from the public entity assuming responsibility for Structural or Treatment Control BMP maintenance and that it meets all local agency design standards; or

c) Written conditions in the sales or lease agreement, which requires the recipient to assume responsibility for maintenance and conduct a maintenance inspection at least once a year; or

d) Written text in project conditions, covenants and restrictions (CCRs) for residential properties assigning maintenance responsibilities to the Home Owners Association for maintenance of the Structural and Treatment Control BMPs; or

e) Any other legally enforceable agreement that assigns responsibility for the maintenance of post-construction Structural or Treatment Control BMPs.

9. Regional Storm Water Mitigation Program

A Permittee or Permittee group may apply to the Regional Board for approval of a regional or sub-regional storm water mitigation program to substitute in part or wholly SUSMP requirements. Upon review and a determination by the Regional Board Executive Officer that the proposal is technically valid and appropriate, the Regional Board may consider for approval such a program if its implementation will:

a) Result in equivalent or improved storm water quality;

b) Protect stream habitat;

c) Promote cooperative problem solving by diverse interests;

d) Be fiscally sustainable and has secure funding; and

e) Be completed in five years including the construction and start-up of treatment facilities.

Nothing in this provision shall be construed as to delay the implementation of SUSMP requirements, as approved in this Order.

10. Mitigation Funding

The Permittees may propose a management framework, for endorsement by the Regional Board Executive Officer, to support regional or sub-regional solutions to storm water pollution, where any of the following situations occur:

a) A waiver for impracticability is granted;

b) Legislative funds become available;

c) Off-site mitigation is required because of loss of environmental habitat; or

d) An approved watershed management plan or a regional storm water mitigation plan exists that incorporates an equivalent or improved strategy for storm water mitigation.

11. California Environmental Quality Act (CEQA) Document Update

Each Permittee shall incorporate into its CEQA process, with immediate effect, procedures for considering potential storm water quality impacts and providing for appropriate mitigation when preparing and reviewing CEQA documents. The procedures shall require consideration of the following:

a) Potential impact of project construction on storm water runoff;

b) Potential impact of project post-construction activity on storm water runoff;

c) Potential for discharge of storm water from areas from material storage, vehicle or equipment fueling, vehicle or equipment maintenance (including washing), waste handling, hazardous materials handling or storage, delivery areas or loading docks, or other outdoor work areas;

d) Potential for discharge of storm water to impair the beneficial uses of the receiving waters or areas that provide water quality benefit;

e) Potential for the discharge of storm water to cause significant harm on the biological integrity of the waterways and water bodies;

f) Potential for significant changes in the flow velocity or volume of storm water runoff that can cause environmental harm; and

g) Potential for significant increases in erosion of the project site or surrounding areas.

12. General Plan Update

a) Each Permittee shall amend, revise or update its General Plan to include watershed and storm water quality and quantity management considerations and policies when any of the following General Plan elements are updated or amended: (i) Land Use, (ii) Housing, (iii) Conservation, and (iv) Open Space.

b) Each Permittee shall provide the Regional Board with the draft amendment or revision when a listed General Plan element or the General Plan is noticed for comment in accordance with Cal. Govt. Code § 65350 *et seq*.

13. Targeted Employee Training

Each Permittee shall train its employees in targeted positions (whose jobs or activities are engaged in development planning) regarding the development planning requirements on an annual basis beginning no later than August 1, 2002, and more frequently if necessary. For Permittees with a population of 250,000 or more (2000 U.S. Census), training shall be completed no later than February 3, 2003.

14. Developer Technical Guidance and Information

a) Each Permittee shall develop and make available to the developer community SUSMP (development planning) guidelines immediately.

b) The Principal Permittee in partnership with Permittees shall issue no later than February 2, 2004, a technical manual for the siting and design of BMPs for the development community in Los Angeles County. The technical manual may be adapted from the revised California Storm Water Quality Task Force Best Management Practices Handbooks scheduled for publication in September 2002. The technical manual shall at a minimum include:

(1) Treatment Control BMPs based on flow-based and volumetric water quality design criteria for the purposes of countywide consistency;

(2) Peak Flow Control criteria to control peak discharge rates, velocities and duration;

(3) Expected pollutant removal performance ranges obtained from national databases, technical reports and the scientific literature;

(4) Maintenance considerations; and

(5) Cost considerations.

E. Development Construction Program

1. Each Permittee shall implement a program to control runoff from construction activity at all construction sites within its jurisdiction. The program shall ensure the following minimum requirements are effectively implemented at all construction sites:

   a) Sediments generated on the project site shall be retained using adequate Treatment Control or Structural BMPs;

   b) Construction-related materials, wastes, spills, or residues shall be retained at the project site to avoid discharge to streets, drainage facilities, receiving waters, or adjacent properties by wind or runoff;

   c) Non-storm water runoff from equipment and vehicle washing and any other activity shall be contained at the project site; and

   d) Erosion from slopes and channels shall be controlled by implementing an effective combination of BMPs (as approved in Regional Board Resolution No. 99-03), such as the limiting of grading scheduled during the wet season; inspecting graded areas during rain events; planting and maintenance of vegetation on slopes; and covering erosion susceptible slopes.

2. For construction sites one acre and greater, each Permittee shall comply with all conditions in section E.1. above and shall:

   a) Require the preparation and submittal of a Local Storm Water Pollution Prevention Plan (Local SWPPP), for approval prior to issuance of a grading permit for construction projects.

   The Local SWPPP shall include appropriate construction site BMPs and maintenance schedules. (A Local SWPPP may substitute for the State SWPPP if the Local SWPPP is at least as inclusive in controls and BMPs as the State SWPPP). The Local SWPPP must include the rationale used for selecting or rejecting BMPs. The project architect, or engineer of record, or authorized qualified designee, must sign a statement on the Local SWPPP to the effect:

   "As the architect/engineer of record, I have selected appropriate BMPs to effectively minimize the negative impacts of this project's construction activities on storm water quality. The project owner and contractor are aware that the selected BMPs must be installed, monitored, and maintained to ensure their effectiveness. The BMPs not selected for implementation are redundant or deemed not applicable to the proposed construction activity."

The landowner or the landowner's agent shall sign a statement to the effect:

"I certify 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, to the best of my knowledge and belief, the information submitted is true, accurate, and complete. I am aware that submitting false and/or inaccurate information, failing to update the Local SWPPP to reflect current conditions, or failing to properly and/or adequately implement the Local SWPPP may result in revocation of grading and/or other permits or other sanctions provided by law."

The Local SWPPP certification shall be signed by the landowner as follows, for a corporation: by a responsible corporate officer which means (a) a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or (b) the manager of the construction activity if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures; for a partnership or sole proprietorship: by a general partner or the proprietor; or for a municipality or other public agency: by an elected official, a ranking management official (e.g., County Administrative Officer, City Manager, Director of Public Works, City Engineer, District Manager), or the manager of the construction activity if authority to sign Local SWPPPs has been assigned or delegated to the manager in accordance with established agency policy.

b) Inspect all construction sites for storm water quality requirements during routine inspections a minimum of once during the wet season. The Local SWPPP shall be reviewed for compliance with local codes, ordinances, and permits. For inspected sites that have not adequately implemented their Local SWPPP, a follow-up inspection to ensure compliance will take place within 2 weeks. If compliance has not been attained, the Permittee will take additional actions to achieve compliance (as specified in municipal codes). If compliance has not been achieved, and the site is also covered under a statewide general construction storm water permit, each Permittee shall enforce their local ordinance requirements, and if non-compliance continues the Regional Board shall be notified for further joint enforcement actions.

c) Require, no later than March 10, 2003, prior to issuing a grading permit for all projects less than five acres requiring coverage under a statewide general construction storm water permit, proof of a Waste Discharger Identification (WDID) Number for filing a Notice of Intent (NOI) for permit coverage and a certification that a

SWPPP has been prepared by the project developer. A Local SWPPP may substitute for the State SWPPP if the Local SWPPP is at least as inclusive in controls and BMPs as the State SWPPP.

3. For sites five acres and greater, each Permittee shall comply with all conditions in Sections E.1. and E.2. and shall:

   a) Require, prior to issuing a grading permit for all projects requiring coverage under the state general permit, proof of a Waste Discharger Identification (WDID) Number for filing a Notice of Intent (NOI) for coverage under the GCASP and a certification that a SWPPP has been prepared by the project developer. A Local SWPPP may substitute for the State SWPPP if the Local SWPPP is at least as inclusive in controls and BMPs as the State SWPPP.

   b) Require proof of an NOI and a copy of the SWPPP at any time a transfer of ownership takes place for the entire development or portions of the common plan of development where construction activities are still on-going.

   c) Use an effective system to track grading permits issued by each Permittee. To satisfy this requirement, the use of a database or GIS system is encouraged, but not required.

4. GCASP Violation Referrals

   a) Referral of Violations of the SQMP, Regional Board Resolution 98-08, and municipal storm water ordinances:

      A Permittee may refer a violation(s) to the Regional Board provided that the Permittee has made a good faith effort of progressive enforcement. At a minimum, a Permittee's good faith effort must include documentation of:
      - Two follow-up inspections within 3 months, and
      - Two warning letters or notices of violation.

   b) Referral of Violations of GCASP Filing Requirements:

      For those projects subject to the GCASP, Permittees shall refer non-filers (i.e., those projects which cannot demonstrate that they have a WDID number) to the Regional Board, within 15 days of making a determination. In making such referrals, Permittees shall include, at a minimum, the following documentation:
      - Project location;
      - Developer;
      - Estimated project size; and
      - Records of communication with the developer regarding filing requirements.

5. Each Permittee shall train employees in targeted positions (whose jobs or activities are engaged in construction activities including construction inspection staff) regarding the requirements of the storm water management program no later than August 1, 2002, and annually

thereafter. For Permittees with a population of 250,000 or more (2000 U.S. Census), initial training shall be completed no later than February 3, 2003. Each Permittee shall maintain a list of trained employees.

F. Public Agency Activities Program

Each Permittee shall implement a Public Agency program to minimize storm water pollution impacts from public agency activities. Public Agency requirements consist of:

- Sewage Systems Maintenance, Overflow, and Spill Prevention
- Public Construction Activities Management
- Vehicle Maintenance/Material Storage Facilities/Corporation Yards Management
- Landscape and Recreational Facilities Management
- Storm Drain Operation and Management
- Streets and Roads Maintenance
- Parking Facilities Management
- Public Industrial Activities Management
- Emergency Procedures
- Treatment Feasibility Study

1. Sewage System Maintenance, Overflow, and Spill Prevention

   a) Each Permittee shall implement a response plan for overflows of the sanitary sewer system within their respective jurisdiction, which shall consist at a minimum of the following:

      (1) Investigation of any complaints received;

      (2) Upon notification, immediate response to overflows for containment; and

      (3) Notification to appropriate sewer and public health agencies when a sewer overflows to the MS4.

   b) In addition to 1.a.1, 1.a.2, and 1.a.3 above, for those Permittees, which own and/or operate a sanitary sewer system, the Permittee shall also implement the following requirements:

      (1) Procedures to prevent sewage spills or leaks from sewage facilities from entering the MS4; and

      (2) Identify, repair, and remediate sanitary sewer blockages, exfiltration, overflow, and wet weather overflows from sanitary sewers to the MS4.

2. Public Construction Activities Management

   a) Each Permittee shall implement the Development Planning Program requirements (Permit Part 4.D) at public construction projects.

   b) Each Permittee shall implement the Development Construction Program requirements (Permit Part 4.E) at Permittee owned construction sites.

   c) Each Permittee shall obtain coverage under the GCASP for public construction sites 5 acres or greater (or part of a larger area of development) except that a municipality under 100,000 in population (1990 U.S. Census) need not obtain coverage under a separate permit until March 10, 2003.

   d) Each Permittee, no later than March 10, 2003, shall obtain coverage under a statewide general construction storm water permit for public construction sites for projects between one and five acres.

3. Vehicle Maintenance/Material Storage Facilities/Corporation Yards Management

   a) Each Permittee, consistent with the SQMP, shall implement SWPPPs for public vehicle maintenance facilities, material storage facilities, and corporation yards which have the potential to discharge pollutants into storm water.

   b) Each Permittee shall implement BMPs to minimize pollutant discharges in storm water including but not be limited to:

      (1) Good housekeeping practices;

      (2) Material storage control;

      (3) Vehicle leaks and spill control; and

      (4) Illicit discharge control.

   c) Each Permittee shall implement the following measures to prevent the discharge of pollutants to the MS4:

      (1) For existing facilities, that are not already plumbed to the sanitary sewer, all vehicle and equipment wash areas (except for fire stations) shall either be:

         (i) Self-contained;

         (ii) Equipped with a clarifier;

         (iii) Equipped with an alternative pre-treatment device; or

(iv) Plumbed to the sanitary sewer.

(2) For new facilities, or during redevelopment of existing facilities (including fire stations), all vehicle and equipment wash areas shall be plumbed to the sanitary sewer and be equipped with a pre-treatment device in accordance with requirements of the sewer agency.

4. Landscape and Recreational Facilities Management

Each Permittee shall implement the following requirements:

a) A standardized protocol for the routine and non-routine application of pesticides, herbicides (including pre-emergents), and fertilizers;

b) Consistency with State Board's guidelines and monitoring requirements for application of aquatic pesticides to surface waters (WQ Order No. 2001-12 DWQ);

c) Ensure no application of pesticides or fertilizers immediately before, during, or immediately after a rain event or when water is flowing off the area to be applied;

d) Ensure that no banned or unregistered pesticides are stored or applied;

e) Ensure that staff applying pesticides are certified by the California Department of Food and Agriculture, or are under the direct supervision of a certified pesticide applicator;

f) Implement procedures to encourage retention and planting of native vegetation and to reduce water, fertilizer, and pesticide needs;

g) Store fertilizers and pesticides indoors or under cover on paved surfaces or use secondary containment;

h) Reduce the use, storage, and handling of hazardous materials to reduce the potential for spills; and

i) Regularly inspect storage areas.

5. Storm Drain Operation and Management

a) Each Permittee shall designate catch basin inlets within its jurisdiction as one of the following:

Priority A: Catch basins that are designated as consistently generating the highest volumes of trash and/or debris.

Priority B: Catch basins that are designated as consistently generating moderate volumes of trash and/or debris.

Priority C: Catch basins that are designated as generating low volumes of trash and/or debris.

b) Permittees subject to a trash TMDL (Ballona Creek WMA) shall continue to implement the requirements listed below until trash TMDL implementation measures are adopted. Thereafter, the subject Permittees shall implement programs in conformance with the TMDL implementation schedule, which shall include an effective combination of measures such as street sweeping, catch basin cleaning, installation of treatment devices and trash receptacles, or other BMPs. Default requirements include:

(1) Inspection and cleaning of catch basins between May 1 and September 30 of each year;

(2) Additional cleaning of any catch basin that is at least 40% full of trash and/or debris;

(3) Record keeping of catch basins cleaned; and

(4) Recording of the overall quantity of catch basin waste collected.

If the implementation phase for the Los Angeles River and Ballona Creek Trash TMDLs has not begun by October 2003, subject Permittees shall implement the requirements described below in subsection 5(c), until such time programs in conformance with the subject Trash TMDLs are being implemented.

Permittees subject to the Los Angeles River Watershed Trash TMDL shall implement the requirements set forth in Part 7. Total Maximum Daily Load Provisions, subsection 1 “TMDL for Trash in the Los Angeles River Watershed”.

c) Permittees not subject to a trash TMDL shall:

(1) Clean catch basins according to the following schedule:

Priority A: A minimum of three times during the wet season and once during the dry season every year.

Priority B: A minimum of once during the wet season and once during the dry season every year.

Priority C: A minimum of once per year.

In addition to the schedule above, between February 1, 2002 and July 1, 2003, Permittees shall ensure that any catch basin that is at least 40% full of trash and/or debris shall be cleaned out. After July 1, 2003, Permittees shall

ensure that any catch basin that is at least 25% full of trash and debris shall be cleaned out.

(2) For any special event that can be reasonably expected to generate substantial quantities of trash and litter, include provisions that require for the proper management of trash and litter generated, as a condition of the special use permit issued for that event. At a minimum, the municipality who issues the permit for the special event shall arrange for either temporary screens to be placed on catch basins or for catch basins in that area to be cleaned out subsequent to the event and prior to any rain event.

(3) Place trash receptacles at all transit stops within its jurisdiction that have shelters no later than August 1, 2002, and at all other transit stops within its jurisdiction no later than February 3, 2003. All trash receptacles shall be maintained as necessary.

d) Each Permittee shall inspect the legibility of the catch basin stencil or label nearest the inlet. Catch basins with illegible stencils shall be recorded and re-stenciled or re-labeled within 180 days of inspection.

e) Each Permittee shall implement BMPs for Storm Drain Maintenance that include:

(1) A program to visually monitor Permittee-owned open channels and other drainage structures for debris at least annually and identify and prioritize problem areas of illicit discharge for regular inspection;

(2) A review of current maintenance activities to assure that appropriate storm water BMPs are being utilized to protect water quality;

(3) Removal of trash and debris from open channel storm drains shall occur a minimum of once per year before the storm season;

(4) Minimize the discharge of contaminants during MS4 maintenance and clean outs; and

(5) Proper disposal of material removed.

6. Streets and Roads Maintenance

a) Each Permittee shall designate streets and/or street segments within its jurisdiction as one of the following:

Priority A: Streets and/or street segments that are designated as consistently generating the highest volumes of trash and/or debris.

Priority B: Streets and/or street segments that are designated as consistently generating moderate volumes of trash and/or debris.

Priority C: Streets and/or street segments that are designated as generating low volumes of trash and/or debris.

b) Each Permittee shall perform street sweeping of curbed streets according to the following schedule:

Priority A: These streets and/or street segments shall be swept at least two times per month.

Priority B: Each Permittee shall ensure that each street and/or street segments is swept at least once per month.

Priority C: These streets and/or street segments shall be swept as necessary but in no case less than once per year.

c) Each Permittee shall require that:

(1) Sawcutting wastes be recovered and disposed of properly and that in no case shall waste be left on a roadway or allowed to enter the storm drain;

(2) Concrete and other street and road maintenance materials and wastes shall be managed to prevent discharge to the MS4; and

(3) The washout of concrete trucks and chutes shall only occur in designated areas and never discharged to storm drains, open ditches, streets, or catch basins.

d) Each Permittee shall, no later than August 1, 2002, train their employees in targeted positions (whose interactions, jobs, and activities affect storm water quality) regarding the requirements of the storm water management program to:

(1) Promote a clear understanding of the potential for maintenance activities to pollute storm water; and

(2) Identify and select appropriate BMPs.

For Permittees with a population of 250,000 or more (2000 U.S. Census) training shall be completed no later than February 1, 2003.

7. Parking Facilities Management

Permittee-owned parking lots exposed to storm water shall be kept clear of debris and excessive oil buildup and cleaned no less than 2 times per month and/or inspected no less than 2 times per month to determine if

cleaning is necessary. In no case shall a Permittee-owned parking lot be cleaned less than once a month.

8. Public Industrial Activities Management

Each Permittee shall, for any municipal activity considered a discharge of storm water associated with industrial activity, obtain separate coverage under the GIASP except that a municipality under 100,000 in population (1990 U.S. Census) need not file the Notice Of Intent to be covered by said permit until March 10, 2003 (with the exception of power plants, airports, and uncontrolled sanitary landfills).

9. Emergency Procedures

Each Permittee shall repair essential public services and infrastructure in a manner to minimize environmental damage in emergency situations such as: earthquakes; fires; floods; landslides; or windstorms. BMPs shall be implemented to the extent that measures do not compromise public health and safety. After initial emergency response or emergency repair activities have been completed, each Permittee shall implement BMPs and programs as required under this Order.

10. Treatment Feasibility Study

The Permittees in cooperation with the County Sanitation Districts of Los Angeles County shall conduct a study to investigate the possible diversion of dry weather discharges or the use of alternative Treatment Control BMPs to treat flows from their jurisdiction which may impact public health and safety and/or the environment. The Permittees shall collectively review their individual prioritized lists and create a watershed based priority list of drains for potential diversion or treatment and submit the priority listing to the Regional Board Executive Officer, no later than July 1, 2003.

G. Illicit Connections and Illicit Discharges Elimination Program

Permittees shall eliminate all illicit connections and illicit discharges to the storm drain system, and shall document, track, and report all such cases in accordance with the elements and performance measures specified in the following subsections.

1. General

a) Implementation: Each Permittee must develop an Implementation Program which specifies how each Permittee is implementing revisions to the IC/ID Program of the SQMP. This Implementation Program must be documented, and available for review and approval by the Regional Board Executive Officer, upon request.

b) Tracking: All Permittees shall, no later than February 3, 2003, develop and maintain a listing of all permitted connections to their storm drain system. All Permittees shall map at a scale and in a format specified by the Principal Permittee all illicit connections and discharges on their baseline maps, and shall transmit this information to the Principal Permittee. No later than February 3, 2003, the Principal Permittee shall use this information as well as results of baseline and priority screening for illicit connections (as set forth in subsection 2 below) to start an annual evaluation of patterns and trends of illicit connections and illicit discharges, with the objectives of identifying priority areas for elimination of illicit connections and illicit discharges.

c) Training: All Permittees shall train all targeted employees who are responsible for identification, investigation, termination, cleanup, and reporting of illicit connections and discharges. For Permittees with a population of less than 250,000 (2000 U.S. Census), training shall be completed no later than August 1, 2002. For Permittees with a population of 250,000 or more (2000 U.S. Census), training shall be completed no later than February 3, 2003. Furthermore, all Permittees shall conduct refresher training on an annual basis thereafter.

2. Illicit Connections

a) Screening for Illicit Connections

(1) Field Screening: All Permittees shall field Screen the storm drain system for illicit connections in accordance with the following schedule:

(i) Open channels: No later than February 3, 2003;

(ii) Underground pipes in priority areas: No later than February 1, 2005; and

(iii) Underground pipes with a diameter of 36 inches or greater: No later than December 12, 2006.

Permittees shall report, to the Principal Permittee, on the location and length of open channels or underground pipes that have been Screened *vis a vis* the entire storm drain network, and on the status of suspected, confirmed, and terminated illicit connections. Permittees shall maintain a list containing all permitted connections and the status of connections under investigation for possible illicit connection.

(2) Permit Screening: No later than December 12, 2006, Permittees shall complete a review of all permitted connections to the storm drain system, to confirm compliance with Part 1 (Discharge Prohibition).

b) Response to Illicit Connections

(1) Investigation: Upon discovery or upon receiving a report of a suspected illicit connection, Permittees shall initiate an investigation within 21 days, to determine the source of the connection, the nature and volume of discharge through the connection, and the responsible party for the connection.

(2) Termination: Upon confirmation of the illicit nature of a storm drain connection, Permittees shall ensure termination of the connection within 180 days, using enforcement authority as needed.

3. Illicit Discharges

a) Abatement and Cleanup: Permittees shall respond, within one business day of discovery or a report of a suspected illicit discharge, with activities to abate, contain, and clean up all illicit discharges, including hazardous substances.

b) Investigation: Permittees shall investigate illicit discharges as soon as practicable (during or immediately following containment and cleanup activities), and shall take enforcement action as appropriate.

Part 5. DEFINITIONS

The following are definitions for terms applicable to this Order:

"Adverse Impact" means a detrimental effect upon water quality or beneficial uses caused by a discharge or loading of a pollutant or pollutants.

"Anti-degradation policies" means the *Statement of Policy with Respect to Maintaining High Quality Water in California* (State Board Resolution No. 68-16) which protects surface and ground waters from degradation. In particular, this policy protects waterbodies where existing quality is higher than that necessary for the protection of beneficial uses including the protection of fish and wildlife propagation and recreation on and in the water.

"Applicable Standards and Limitations" means all State, interstate, and federal standards and limitations to which a "discharge" or a related activity is subject under the CWA, including "effluent limitations, "water quality standards, standards of performance, toxic effluent standards or prohibitions, "best management practices," and pretreatment standards under sections 301, 302, 303, 304, 306, 307, 308, 403 and 404 of CWA.

"**Areas of Special Biological Significance (ASBS)**" means all those areas of this state as ASBS, listed specifically within the California Ocean Plan or so designated by the State Board which, among other areas, includes the area from Mugu Lagoon to Latigo Point: Oceanwater within a line originating from Laguna Point at 34° 5' 40" north, 119° 6'30" west, thence southeasterly following the mean high tideline to a point at Latigo Point defined by the intersection of the meanhigh tide line and a line extending due south of Benchmark 24; thence

due south to a distance of 1000 feet offshore or to the 100 foot isobath, whichever distance is greater; thence northwesterly following the 100 foot isobath or maintaining a 1,000-foot distance from shore, whichever maintains the greater distance from shore, to a point lying due south of Laguna Point, thence due north to Laguna Point.

"Authorized Discharge" means any discharge that is authorized pursuant to an NPDES permit or meets the conditions set forth in this Order.

"Automotive Service Facilities" means a facility that is categorized in any one of the following Standard Industrial Classification (SIC) codes: 5013, 5014, 5541, 5511, 7532-7534, or 7536-7539. For inspection purposes, Permittees need not inspect facilities with SIC codes 5013, 5014, 5541, 5511, provided that these facilities have no outside activities or materials that may be exposed to storm water.

"Baseline Waste Load Allocation" means the Waste Load Allocation assigned to a Permittee before reductions are required. The progressive reductions in the Waste Load Allocations are based on a percentage of the Baseline Waste Load Allocation. The Baseline Waste Load Allocation for each jurisdiction was calculated based on the annual average amount of trash discharged to the storm drain system from a representative sampling of land use areas, as determined during the Baseline Monitoring Program. The Baseline Waste Load Allocations are incorporated into the Basin Plan at Table 7-2.2.

"Basin Plan" means the Water Quality Control Plan, Los Angeles Region, Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties, adopted by the Regional Board on June 13, 1994 and subsequent amendments.

"Beneficial Uses" means the existing or potential uses of receiving waters in the permit area as designated by the Regional Board in the Basin Plan.

"Best Management Practices (BMPs)" means methods, measures, or practices designed and selected to reduce or eliminate the discharge of pollutants to surface waters from point and nonpoint source discharges including storm water. BMPs include structural and nonstructural controls, and operation and maintenance procedures, which can be applied before, during, and/or after pollution producing activities.

"Commercial Development" means any development on private land that is not heavy industrial or residential. The category includes, but is not limited to: hospitals, laboratories and other medical facilities, educational institutions, recreational facilities, plant nurseries, car wash facilities, mini-malls and other business complexes, shopping malls, hotels, office buildings, public warehouses and other light industrial complexes.

"Construction" means constructing, clearing, grading, or excavation that results in soil disturbance. Construction includes structure teardown. It does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of facility; emergency construction activities required to immediately protect public health and safety; interior remodeling with no outside exposure of construction material or construction waste to storm water; mechanical permit work; or sign permit work.

"Control" means to minimize, reduce, eliminate, or prohibit by technological, legal, contractual or other means, the discharge of pollutants from an activity or activities.

Amended by Orders R4-2006-0074, R4-2007-0042, and R4-2009-0130, and further amended pursuant to L.A. Superior Court Case No. BS122724

"Daily Generation Rate (DGR)" means the estimated amount of trash deposited within a representative drainage area during a 24-hour period, derived from the amount of trash collected from streets and catch basins in the area over a 30-day period.

"Dechlorinated/Debrominated Swimming Pool Discharge" means swimming pool discharges which have no measurable chlorine or bromine and do not contain any detergents, wastes, or additional chemicals not typically found in swimming pool water. The term does not include swimming pool filter backwash.

"Development" means any construction, rehabilitation, redevelopment or reconstruction of any public or private residential project (whether single-family, multi-unit or planned unit development); industrial, commercial, retail and other non-residential projects, including public agency projects; or mass grading for future construction. It does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of facility, nor does it include emergency construction activities required to immediately protect public health and safety.

"Directly Adjacent" means situated within 200 feet of the contiguous zone required for the continued maintenance, function, and structural stability of the environmentally sensitive area.

"Director" means the Director of a municipality and Person(s) designated by and under the Director's instruction and supervision.

"Discharge" means when used without qualification the "discharge of a pollutant."

"Discharging Directly" means outflow from a drainage conveyance system that is composed entirely or predominantly of flows from the subject, property, development, subdivision, or industrial facility, and not commingled with the flows from adjacent lands.

"Discharge of a Pollutant" means: any addition of any "pollutant" or combination of pollutants to "waters of the United States" from any "point source" or, any addition of any pollutant or combination of pollutants to the waters of the "contiguous zone" or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation. The term discharge includes additions of pollutants into waters of the United States from: surface runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a State, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works.

"Disturbed Area" means an area that is altered as a result of clearing, grading, and/or excavation.

"Environmentally Sensitive Areas (ESAs)" means an area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which would be easily disturbed or degraded by human activities and developments (California Public Resources Code § 30107.5). Areas subject to storm water mitigation requirements are: areas designated as Significant Ecological Areas by the County of Los Angeles (*Los Angeles County Significant Areas Study, Los Angeles County Department of Regional Planning (1976)* and amendments); an area designated as a Significant Natural Area

by the California Department of Fish and Game's Significant Natural Areas Program, provided that area has been field verified by the Department of Fish and Game; an area listed in the Basin Plan as supporting the "Rare, Threatened, or Endangered Species (RARE)" beneficial use; and an area identified by a Permittee as environmentally sensitive.

"Full Capture System" means any single device or series of devices, certified by the Executive Officer, that traps all particles retained by a 5 mm mesh screen and has a design treatment capacity of not less than the peak flow rate Q resulting from a one-year, one-hour storm in the sub-drainage area. The Rational Equation is used to compute the peak flow rate:

$$Q = C \times I \times A,$$

Where:
Q = design flow rate (cubic feet per second, cfs);
C = runoff coefficient (dimensionless);
I = design rainfall intensity (inches per hour, as determined per the Los Angeles County rainfall isohyetal maps relevant to the Los Angeles River watershed),[7] and
A = sub-drainage area (acres).

"General Construction Activities Storm Water Permit (GCASP)" means the general NPDES permit adopted by the State Board which authorizes the discharge of storm water from construction activities under certain conditions.

"General Industrial Activities Storm Water Permit (GIASP)" means the general NPDES permit adopted by the State Board which authorizes the discharge of storm water from certain industrial activities under certain conditions.

"Hillside" means property located in an area with known erosive soil conditions, where the development contemplates grading on any natural slope that is 25% or greater and where grading contemplates cut or fill slopes.

"Illicit Connection" means any man-made conveyance that is connected to the storm drain system without a permit, excluding roof drains and other similar type connections. Examples include channels, pipelines, conduits, inlets, or outlets that are connected directly to the storm drain system.

"Illicit Discharge" means any discharge to the storm drain system that is prohibited under local, state, or federal statutes, ordinances, codes, or regulations. The term illicit discharge includes all non storm-water discharges except discharges pursuant to an NPDES permit, discharges that are identified in Part 1, "Discharge Prohibitions" of this order, and discharges authorized by the Regional Board Executive Officer.

"Illicit Disposal" means any disposal, either intentionally or unintentionally, of material(s) or waste(s) that can pollute storm water.

[7] The isohyetal map may be updated annually by the Los Angeles County hydrologist to reflect additional rain data gathered during the previous year. Annual updates published by the Los Angeles County Department of Public Works are prospectively incorporated by reference into this Order.

"Industrial/Commercial Facility" means any facility involved and/or used in the production, manufacture, storage, transportation, distribution, exchange or sale of goods and/or commodities, and any facility involved and/or used in providing professional and non-professional services. This category of facilities includes, but is not limited to, any facility defined by the Standard Industrial Classifications (SIC). Facility ownership (federal, state, municipal, private) and profit motive of the facility are not factors in this definition.

"Infiltration" means the downward entry of water into the surface of the soil.

"Inspection" means entry and the conduct of an on-site review of a facility and its operations, at reasonable times, to determine compliance with specific municipal or other legal requirements. The steps involved in performing an inspection, include, but are not limited to:

1. Pre-inspection documentation research.;
2. Request for entry;
3. Interview of facility personnel;
4. Facility walk-through.
5. Visual observation of the condition of facility premises;
6. Examination and copying of records as required;
7. Sample collection (if necessary or required);
8. Exit conference (to discuss preliminary evaluation); and,
9. Report preparation, and if appropriate, recommendations for coming into compliance.

In the case of restaurants, a Permittee may conduct an inspection from the curbside, provided that such "curbside" inspection provides the Permittee with adequate information to determine an operator's compliance with BMPs that must be implemented per requirements of this Order, Regional Board Resolution 98-08, County and municipal ordinances, and the SQMP.

"Institutional Controls" means programmatic trash control measures that do not require construction or structural modifications to the MS4. Examples include street sweeping, public education, and clean out of catch basins that discharge to storm drains.

"Large Municipal Separate Storm Sewer System (MS4)" means all MS4s that serve a population greater than 250,000 (1990 Census) as defined in 40 CFR 122.26 (b)(4). The Regional Board designated Los Angeles County as a large MS4 in 1990, based on: (i) the U.S. Census Bureau 1990 population count of 8.9 million, and (ii) the interconnectivity of the MS4s in the incorporated and unincorporated areas within the County.

"Local SWPPP" means the Storm Water Pollution Prevention Plan required by the local agency for a project that disturbs one or more acres of land.

"Maximum Extent Practicable (MEP)" means the standard for implementation of storm water management programs to reduce pollutants in storm water. CWA § 402(p)(3)(B)(iii) requires that municipal permits "shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants. See also State Board Order WQ 2000-11 at page 20.

"Method Detection Limit (MDL)" means the minimum concentration of a substance that can be measured and reported with 99 percent confidence that the analyte concentration is greater than zero, as defined in 40 CFR 136, Appendix B.

"Minimum Level (ML)" means the concentration at which the entire analytical system must give a recognizable signal and acceptable calibration point. The ML is the concentration in a sample that is equivalent to the 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.

"Municipal Separate Storm Sewer System (MS4)" means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, alleys, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) owned by a State, city, county, town or other public body, that is designed or used for collecting or conveying storm water, which is not a combined sewer, and which is not part of a publicly owned treatment works, and which discharges to Waters of the United States.

"National Pollutant Discharge Elimination System (NPDES)" means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under CWA §307, 402, 318, and 405. The term includes an "approved program."

"Natural Drainage Systems" means unlined or unimproved (not engineered) creeks, streams, rivers or similar waterways.

"New Development" means land disturbing activities; structural development, including construction or installation of a building or structure, creation of impervious surfaces; and land subdivision.

"Non-Storm Water Discharge" means any discharge to a storm drain that is not composed entirely of storm water.

"Nuisance" means anything that 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.

"Parking Lot" means land area or facility for the parking or storage of motor vehicles used for businesses, commerce, industry, or personal use, with a lot size of 5,000 square feet or more of surface area, or with 25 or more parking spaces.

"Partial Capture Device" means any structural trash control device that has not been certified by the Executive Officer as meeting the "full capture" performance requirements.

"Permittee(s)" means Co-Permittees and any agency named in this Order as being responsible for permit conditions within its jurisdiction. Permittees to this Order include the Los Angeles County Flood Control District, Los Angeles County, and the cities of Agoura Hills, Alhambra, Arcadia, Artesia, Azusa, Baldwin Park, Bellflower, Bell Gardens, Beverly Hills,

Bradbury, Burbank, Calabasas, Carson, Cerritos, Claremont, Commerce, Compton, Covina, Cudahy, Culver City, Diamond Bar, Downey, Duarte, El Monte, El Segundo, Gardena, Glendale, Glendora, Hawaiian Gardens, Hawthorne, Hermosa Beach, Hidden Hills, Huntington Park, Industry, Inglewood, Irwindale, La Canada Flintridge, La Habra Heights, Lakewood, La Mirada, La Puente, La Verne, Lawndale, Lomita, Los Angeles, Lynwood, Malibu, Manhattan Beach, Maywood, Monrovia, Montebello, Monterey Park, Norwalk, Palos Verdes Estates, Paramount, Pasadena, Pico Rivera, Pomona, Rancho Palos Verdes, Redondo Beach, Rolling Hills, Rolling Hills Estates, Rosemead, San Dimas, San Fernando, San Gabriel, San Marino, Santa Clarita, Santa Fe Springs, Santa Monica, Sierra Madre, Signal Hill, South El Monte, South Gate, South Pasadena, Temple City, Torrance, Vernon, Walnut, West Covina, West Hollywood, Westlake Village, and Whittier.

"Planning Priority Projects" means those projects that are required to incorporate appropriate storm water mitigation measures into the design plan for their respective project. These types of projects include:

1. Ten or more unit homes (includes single family homes, multifamily homes, condominiums, and apartments)
2. A 100,000 or more square feet of impervious surface area industrial/ commercial development (1 ac starting March 2003)
3. Automotive service facilities (SIC 5013, 5014, 5541, 7532-7534, and 7536-7539)
4. Retail gasoline outlets
5. Restaurants (SIC 5812)
6. Parking lots 5,000 square feet or more of surface area or with 25 or more parking spaces
7. Redevelopment projects in subject categories that meet Redevelopment thresholds
8. Projects located in or directly adjacent to or discharging directly to an ESA, which meet thresholds; and
9. Those projects that require the implementation of a site-specific plan to mitigate post-development storm water for new development not requiring a SUSMP but which may potentially have adverse impacts on post-development storm water quality, where the following project characteristics exist:

    a) Vehicle or equipment fueling areas;
    b) Vehicle or equipment maintenance areas, including washing and repair;
    c) Commercial or industrial waste handling or storage;
    d) Outdoor handling or storage of hazardous materials;
    e) Outdoor manufacturing areas;
    f) Outdoor food handling or processing;
    g) Outdoor animal care, confinement, or slaughter; or
    h) Outdoor horticulture activities.

"Pollutants" means those "pollutants" defined in CWA §502(6) (33.U.S.C.§1362(6)), and incorporated by reference into California Water Code §13373.

"Potable Water Distribution Systems Releases" means sources of flows from drinking water storage, supply and distribution systems including flows from system failures, pressure releases, system maintenance, distribution line testing, fire hydrant flow testing; and flushing and dewatering of pipes, reservoirs, vaults, and minor non-invasive well maintenance activities not involving chemical addition(s). It does not include wastewater discharges from activities that occur at wellheads, such as well construction, well development (i.e., aquifer pumping tests, well purging, etc.), or major well maintenance.

"Project" means all development, redevelopment, and land disturbing activities. The term is not limited to "Project" as defined under CEQA (Pub. Resources Code §21065).

"Rain Event" means any rain event greater than 0.1 inch in 24 hours except where specifically stated otherwise.

"Rare, Threatened, or Endangered Species (RARE)" means a beneficial use for waterbodies in the Los Angeles Region, as designated in the Basin Plan (Table 2-1), that supports habitats necessary, at least in part, for the survival and successful maintenance of plant or animal species established under state or federal law as rare, threatened, or endangered.

"Receiving Waters" means all surface water bodies in the Los Angeles Region that are identified in the Basin Plan.

"Redevelopment" means land-disturbing activity that results in the creation, addition, or replacement of 5,000 square feet or more of impervious surface area on an already developed site. Redevelopment includes, but is not limited to: the expansion of a building footprint; addition or replacement of a structure; replacement of impervious surface area that is not part of a routine maintenance activity; and land disturbing activities related to structural or impervious surfaces. It does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of facility, nor does it include emergency construction activities required to immediately protect public health and safety.

"Regional Administrator" means the Regional Administrator of the Regional Office of the USEPA or the authorized representative of the Regional Administrator.

"Restaurant" means 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).

"Retail Gasoline Outlet" means any facility engaged in selling gasoline and lubricating oils.

"Runoff" means any runoff including storm water and dry weather flows from a drainage area that reaches a receiving water body or subsurface. During dry weather it is typically comprised of base flow either contaminated with pollutants or uncontaminated, and nuisance flows.

"Screening" means using proactive methods to identify illicit connections through a continuously narrowing process. The methods may include: performing baseline monitoring of open channels, conducting special investigations using a prioritization approach, analyzing

maintenance records for catch basin and storm drain cleaning and operation, and verifying all permitted connections into the storm drains. Special investigation techniques may include: dye testing, visual inspection, smoke testing, flow monitoring, infrared, aerial and thermal photography, and remote control camera operation.

"Sidewalk Rinsing" means pressure washing of paved pedestrian walkways with average water usage of 0.006 gallons per square foot, with no cleaning agents, and properly disposing of all debris collected, as authorized under Regional Board Resolution No. 98-08.

"Significant Ecological Area (SEA)" means an area that is determined to possess an example of biotic resources that cumulatively represent biological diversity, for the purposes of protecting biotic diversity, as part of the Los Angeles County General Plan.[8]
Areas are designated as SEAs, if they possess one or more of the following criteria:

1. The habitat of rare, endangered, and threatened plant and animal species.
2. Biotic communities, vegetative associations, and habitat of plant and animal species that are either one of a kind, or are restricted in distribution on a regional basis.
3. Biotic communities, vegetative associations, and habitat of plant and animal species that are either one of a kind or are restricted in distribution in Los Angeles County.
4. Habitat that at some point in the life cycle of a species or group of species, serves as a concentrated breeding, feeding, resting, migrating grounds and is limited in availability either regionally or within Los Angeles County.
5. Biotic resources that are of scientific interest because they are either an extreme in physical/geographical limitations, or represent an unusual variation in a population or community.
6. Areas important as game species habitat or as fisheries.
7. Areas that would provide for the preservation of relatively undisturbed examples of natural biotic communities in Los Angeles County.
8. Special areas.[9]

"Significant Natural Area (SNA)" means an area defined by the California Department of Fish and Game (DFG), Significant Natural Areas Program, as an area that contains an important example of California's biological diversity. The most current SNA maps, reports, and descriptions can be downloaded from the DFG website at ftp://maphost.dfg.ca.gov/outgoing/whdab/sna/. These areas are identified using the following biological criteria only, irrespective of any administrative or jurisdictional considerations:

1. Areas supporting extremely rare species or habitats.
2. Areas supporting associations or concentrations of rare species or habitats.
3. Areas exhibiting the best examples of rare species and habitats in the state.

[8] The 61 existing SEAs represent the findings of a study that was completed in 1976 by England and Nelson, Environmental Consultants, as amended through the adoption of a revised Los Angeles County General Plan in 1980. The results of an update study to evaluate existing SEAs within unincorporated Los Angeles County is currently being proposed to the Los Angeles County Planning Commission (*Los Angeles County Significant Ecological Area Update Study 2000, Background Report*, PCR Services Corporation). The *Update Study 2000*, which contains existing and proposed SEA boundaries, can be downloaded from the Los Angeles County Department of Planning website at http://planning.co.la.ca.us/drp_revw.html#SEA

[9] These criteria from the 1976 study have been modified in the *Update Study 2000*.

"Site" means the land or water area where any "facility or activity" is physically located or conducted, including adjacent land used in connection with the facility or activity.

"Source Control BMP" means any schedules of activities, prohibitions of practices, maintenance procedures, managerial practices or operational practices that aim to prevent storm water pollution by reducing the potential for contamination at the source of pollution.

"SQMP" means the Los Angeles Countywide Stormwater Quality Management Program.

"State Storm Water Pollution Prevention Plan (State SWPPP)" means a plan, as required by a State General Permit, identifying potential pollutant sources and describing the design, placement and implementation of BMPs, to effectively prevent non-stormwater Discharges and reduce Pollutants in Stormwater Discharges during activities covered by the General Permit.

"Storm Water" means storm water runoff, snow melt runoff, and surface runoff and drainage.

"Storm Water Discharge Associated with Industrial Activity" means industrial discharge as defined in 40 CFR 122.26(b)(14)

"Stormwater Quality Management Program" means the Los Angeles Countywide Stormwater Quality Management Program, which includes descriptions of programs, collectively developed by the Permittees in accordance with provisions of the NPDES Permit, to comply with applicable federal and state law, as the same is amended from time to time.

"Structural BMP" means any structural facility designed and constructed to mitigate the adverse impacts of storm water and urban runoff pollution (e.g. canopy, structural enclosure). The category may include both Treatment Control BMPs and Source Control BMPs.

"SUSMP" means the Los Angeles Countywide Standard Urban Stormwater Mitigation Plan. The SUSMP shall address conditions and requirements of new development.

"Total Maximum Daily Load (TMDL)" means the sum of the individual waste load allocations for point sources and load allocations for nonpoint sources and natural background.

"Toxicity Identification Evaluation (TIE)" means a set of procedures to identify the specific chemical(s) responsible for toxicity. These procedures are performed in three phases (characterization, identification, and confirmation) using aquatic organism toxicity tests.

"Toxicity Reduction Evaluation (TRE)" means a study conducted in a step-wise process to identify the causative agents of effluent or ambient toxicity, isolate the sources of toxicity, evaluate the effectiveness of toxicity control options, and then confirm the reduction in toxicity.

"Treatment" means the application of engineered systems that use physical, chemical, or biological processes to remove pollutants. Such processes include, but are not limited to, filtration, gravity settling, media absorption, biodegradation, biological uptake, chemical oxidation and UV radiation.

“Treatment Control BMP” means 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.

"USEPA Phase I Facilities" means facilities in specified industrial categories that are required to obtain an NPDES permit for storm water discharges, as required by 40 CFR 122.26(c). These categories include:

i. facilities subject to storm water effluent limitation guidelines, new source performance standards, or toxic pollutant effluent standards (40 CFR N)
ii. manufacturing facilities
iii. oil and gas/mining facilities
iv. hazardous waste treatment, storage, or disposal facilities
v. landfills, land application sites, and open dumps
vi. recycling facilities
vii. steam electric power generating facilities
viii. transportation facilities
ix. sewage of wastewater treatment works
x. light manufacturing facilities

"Vehicle Maintenance/Material Storage Facilities/Corporation Yards" means any Permittee owned or operated facility or portion thereof that:

i. Conducts industrial activity, operates equipment, handles materials, and provides services similar to Federal Phase I facilities;
ii. Performs fleet vehicle service/maintenance on ten or more vehicles per day including repair, maintenance, washing, and fueling;
iii. Performs maintenance and/or repair of heavy industrial machinery/equipment ; and
iv. Stores chemicals, raw materials, or waste materials in quantities that require a hazardous materials business plan or a Spill Prevention, Control , and Counter-measures (SPCC) plan.

“Water Quality Standards and Water Quality Objectives” means water quality criteria contained in the Basin Plan, the California Ocean Plan, the National Toxics Rule, the California Toxics Rule, and other state or federally approved surface water quality plans. Such plans are used by the Regional Board to regulate all discharges, including storm water discharges.

“Waters of the State” means any surface water or groundwater, including saline waters, within boundaries of the state.

“Waters of the United States" or "Waters of the U.S.” means:

a. All waters that 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 sea; and
g. "Wetlands" adjacent to waters (other than waters that are themselves wetlands) identified in paragraph (a) through (f) of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA (other than cooling ponds as defined in 40 CFR 423.22(m), which also meet the criteria of this definition) are not waters of the United States. This exclusion applies only to man-made bodies of water, which neither were originally created in waters of the United States (such as disposal area in wetlands) nor resulted from the impoundment of waters of the United States. 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 CWA, the final authority regarding CWA jurisdiction remains with USEPA.

"Wet Season" means the calendar period beginning October 1 through April 15.

Part 6. STANDARD PROVISIONS

A. Standard Requirements

1. Each Permittee shall comply with all provisions and requirements of this permit.

2. Should a Permittee discover a failure to submit any relevant facts or that it submitted incorrect information in a report, it shall promptly submit the missing or correct information.

3. Each Permittee shall report all instances of non-compliance not otherwise reported at the time monitoring reports are submitted.

4. This Order includes the attached Monitoring and Reporting Program, and SUSMP(Regional Board Resolution No. R00-02), which are a part of the permit and must be complied with in the same manner as with the rest of the requirements in the permit.

B. Regional Board Review

Any formal determination or approval made by the Regional Board Executive Officer pursuant to the provisions of this Order may be reviewed by the Regional Board. A Permittee(s) or a member of the public may request such review upon petition within 30 days of the effective date of the notification of such decision to the Permittee(s) and interested parties on file at the Regional Board.

Amended by Orders R4-2006-0074, R4-2007-0042, and R4-2009-0130, and further amended pursuant to L.A. Superior Court Case No. BS122724

C. Public Review

1. All documents submitted to the Regional Board in compliance with the terms and conditions of this Order shall be made available to members of the public pursuant to the Freedom of Information Act (5 U.S.C. § 552 (as amended) and the Public Records Act (Cal. Government Code § 6250 *et seq.*).

2. All documents submitted to the Regional Board Executive Officer for approval shall be made available to the public for a 30-day period to allow for public comment.

D. Duty to Comply

1. Each Permittee must comply with all of the terms, requirements, and conditions of this Order. Any violation of this order constitutes a violation of the Clean Water Act, its regulations and the California Water Code, and is grounds for enforcement action, Order termination, Order revocation and reissuance, denial of an application for reissuance; or a combination thereof [40 CFR 122.41(a), CWC § 13261, 13263, 13265, 13268, 13300, 13301, 13304, 13340, 13350].

2. A copy of these waste discharge specifications shall be maintained by each Permittee so as to be available during normal business hours to Permittee employees and members of the public.

3. Any discharge of wastes at any point(s) other than specifically described in this Order is prohibited, and constitutes a violation of the Order.

E. Duty to Mitigate [40 CFR 122.41 (d)]

Each Permittee shall take all reasonable steps to minimize or prevent any discharge that has a reasonable likelihood of adversely affecting human health or the environment.

F. Inspection and Entry [40 CFR 122.41(i), CWC § 13267]

The Regional Board, USEPA, and other authorized representatives shall be allowed:

1. Entry upon premises where a regulated facility is located or conducted, or where records are kept under conditions of this Order;

2. Access to copy any records, at reasonable times, that are kept under the conditions of this Order;

3. To inspect at reasonable times any facility, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order; and,

4. To photograph, sample, and monitor at reasonable times for the purpose of assuring compliance with this Order, or as otherwise authorized by the CWA and the CWC.

G. Proper Operation and Maintenance [40 CFR 122.41 (e), CWC § 13263(f)]

The Permittees shall at all times properly operate and maintain all facilities and systems of treatment (and related appurtenances) that are installed or used by the Permittees to achieve compliance with this Order. Proper operation and maintenance includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar system that are installed by a Permittee only when necessary to achieve compliance with the conditions of this Order.

H. Signatory Requirements [40 CFR 122.41(k) & 122.22]

Except as otherwise provided in this Order, all applications, reports, or information submitted to the Regional Board shall be signed by the Director of Public Works, City Engineer, or authorized designee and certified as set forth in 40 CFR 122.22.

I. Reopener and Modification [40 CFR 122.41(f) & 122.62]

1. This Order may only be modified, revoked, or reissued, prior to the expiration date, by the Regional Board, in accordance with the procedural requirements of the CWC and CCR Title 23 for the issuance of waste discharge requirements, 40 CFR 122.62, and upon prior notice and hearing, to:

    a) Address changed conditions identified in the required reports or other sources deemed significant by the Regional Board;

    b) Incorporate applicable requirements or statewide water quality control plans adopted by the State Board or amendments to the Basin Plan;

    c) Comply with any applicable requirements, guidelines, and/or regulations issued or approved pursuant to CWA Section 402(p); and/or,

    d) Consider any other federal, or state laws or regulations that became effective after adoption of this Order.

2. After notice and opportunity for a hearing, this Order may be terminated or modified for cause, including, but not limited to:

    a) Violation of any term or condition contained in this Order;

    b) Obtaining this Order by misrepresentation, or failure to disclose all relevant facts; or,

    c) A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.

3. The filing of a request by the Principal Permittee or Permittees for a modification, revocation and re-issuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any condition of this Order.

4. This Order may be modified to make corrections or allowances for changes in the permitted activity listed in this section, following the procedures at 40 CFR 122.63, if processed as a minor modification. Minor modifications may only:

   a) Correct typographical errors, or

   b) Require more frequent monitoring or reporting by the Permittee.

J. Severability

The provisions of this permit are severable; and if any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this permit shall not be affected.

K. Duty to Provide Information [40 CFR 122.41(h)]

The Permittees shall furnish, within a reasonable time, any information the Regional Board or USEPA may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Order. The Permittees shall also furnish to the Regional Board, upon request, copies of records required to be kept by this Order.

L. Twenty-four Hour Reporting [40 CFR 122.41(l)(6)][10]

1. The Permittees shall report to the Regional Board any noncompliance that may endanger health or the environment. Any information shall be provided orally within 24 hours from the time any Permittee becomes aware of the circumstances. A written submission shall also be provided within five days of the time the Permittee 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 Regional Board may waive the required written report on a case-by-case basis.

M. Bypass [40 CFR 122.41(m)][11]

[10] This provision applies to incidents where effluent limitations (numerical or narrative) as provided in this Order or in the Los Angeles County SQMP are exceeded, and which endanger public health or the environment.

Bypass (the intentional diversion of waste streams from any portion of a treatment facility) is prohibited. The Regional Board may take enforcement action against Permittees for bypass unless:

1. Bypass was unavoidable to prevent loss of life, personal injury or severe property damage. (Severe property damage means substantial physical damage to property, damage to the treatment facilities that 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. There were no feasible alternatives to bypass, such as the use of auxiliary treatment facilities, retention of untreated waste, or maintenance during normal periods of equipment down time. 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 that could occur during normal periods of equipment downtime or preventive maintenance;

3. The Permittee submitted a notice at least ten days in advance of the need for a bypass to the Regional Board; or,

4. Permittees may allow a bypass to occur that does not cause effluent limitations to be exceeded, but only if it is for essential maintenance to assure efficient operation. In such a case, the above bypass conditions are not applicable. The Permittee shall submit notice of an unanticipated bypass as required.

N. Upset [40 CFR 122.41(n)][12]

Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. 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. A Permittee that wishes to establish the affirmative defense of an upset in an action brought for non compliance shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

   a) An upset occurred and that the Permittee can identify the cause(s) of the upset;

   b) The permitted facility was being properly operated by the time of the upset;

[11] This provision applies to the operation and maintenance of storm water controls and BMPs as provided in this Order or in the SQMP.
[12] *Supra*. See footnote number 3.

c) The Permittee submitted notice of the upset as required; and,

d) The Permittee complied with any remedial measures required.

2. No determination made before an action for noncompliance, such as during administrative review of claims that non-compliance was caused by an upset, is final administrative action subject to judicial review.

3. In any enforcement proceeding, the Permittee seeking to establish the occurrence of an upset has the burden of proof.

O. Property Rights [40 CFR 122.41(g)]

This Order does not convey any property rights of any sort, or any exclusive privilege.

P. Enforcement

1. Violation of any of the provisions of the NPDES permit or any of the provisions of this Order may subject the violator to any of the penalties described herein, or any combination thereof, at the discretion of the prosecuting authority; except that only one kind of penalties may be applied for each kind of violation. The CWA provides the following:

a) Criminal Penalties for:

(1) Negligent Violations:

The CWA provides that any person who negligently violates permit conditions implementing § 301, 302, 306, 307, 308, 318, or 405 is subject to a fine of not less than $2,500 nor more than $25,000 per day for each violation, or by imprisonment for not more than 1 year, or both.

(2) Knowing Violations:

The CWA provides that any person who knowingly violates permit conditions implementing § 301, 302, 306, 307, 308, 318, or 405 is subject to a fine of not less than $5,000 nor more than $50,000 per day of violation, or by imprisonment for not more than 3 years, or both.

(3) Knowing Endangerment:

The CWA provides that any person who knowingly violates permit conditions implementing § 301, 302, 307, 308, 318, or 405 and who knows at that time that he is placing another person in imminent danger of death or serious bodily injury is subject to a fine of not more than $250,000, or by imprisonment for not more than 15 years, or both.

(4) False Statement:

The CWA provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Act or who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintained under the Act, shall upon conviction, be punished by a fine of not more than $10,000 or by imprisonment for not more than two years, or by both. If a conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $20,000 per day of violation, or by imprisonment of not more than four years, or by both. (See CWA § 309(c)(4))

b) Civil Penalties

The CWA provides that any person who violates a permit condition implementing § 301, 302, 306, 307, 308, 318, or 405 is subject to a civil penalty not to exceed $27,500 per day for each violation.

2. The CWC provides that any person who violates a waste discharge requirement provision of the CWC is subject to civil penalties of up to $5,000 per day, $10,000 per day, or $25,000 per day of violation; or when the violation involves the discharge of pollutants, is subject to civil penalties of up to $10 per gallon per day or $25 per gallon per day of violation; or some combination thereof, depending on the violation or combination of violations.

Q. Need to Halt or Reduce Activity not a Defense [40 CFR 122.41(c)]

It shall not be a defense for a Permittee 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.

R. Rescission

Regional Board Order No. 96-054 is hereby rescinded.

S. Expiration

This Order expires on December 12, 2006. The Permittees must submit a Report of Waste Discharges and a proposed Storm Water Quality Management Program in accordance with CCR Title 23 as application for reissuance of waste discharge requirements no later than June 12, 2006.

Part 7. TOTAL MAXIMUM DAILY LOAD PROVISIONS

The provisions of this Part implement and are consistent with the assumptions and requirements of Waste Load Allocations from TMDLs for which some or all of the Permittees in this Order are responsible.

1. TMDL for Trash in the Los Angeles River Watershed

A. Waste Load Allocations: Each Permittee identified in Appendix 7-1 shall comply with the interim and final effluent limitations set forth in Appendix 7-1 hereto.[13]

B. Compliance:

(1) Permittees may comply with the effluent limitations using any lawful means. Such compliance options are broadly classified as *full capture*, *partial capture*, or *institutional controls*, as described below, and any combination of these may be employed to achieve compliance:

(a) Full Capture Systems:

1) The Basin Plan authorizes the Executive Officer to certify *full capture systems*, which are systems that meet the operating and performance requirements as described in this Order, and the procedures identified in "Procedures and Requirements for Certification of a Best Management Practice for Trash Control as a Full Capture System." (See Appendix 7-2.)[14]

2) Permittees are authorized to comply with their effluent limitations through certified *full capture systems* provided the requirements of paragraph 3), immediately below, and any conditions in the certification, continue to be met.

3) Permittees may comply with their effluent limitations through progressive installation of *full capture systems* throughout their jurisdiction until all areas draining to the Los Angeles River system are addressed. For purposes of this Permit, attainment of the effluent limitations shall be conclusively presumed for any drainage area to the Los Angeles River (or its tributaries)[15] where certified *full capture systems* treat all drainage from the area, provided that the *full capture systems* are adequately sized and maintained, and that maintenance records are up-to-date and available for inspection by the Regional Board.

i. A Permittee relying entirely on *full capture systems* shall be deemed in compliance with its final effluent limitation if it demonstrates that all drainage areas

[13] The interim and final effluent limitations set forth in Appendix 7-1 are equivalent to the Compliance Points identified in Table 7-2.3 of the Basin Plan.

[14] The Regional Board currently recognizes eight *full capture systems*. These are: Vortex Separation Systems (VSS) and seven other Executive Officer certified *full capture systems*, including specific types or designs of trash nets; two gross solids removal devices (GSRDs); catch basin brush inserts and mesh screens; vertical and horizontal trash capture screen inserts; and a connector pipe screen device.

[15] Tributaries to the Los Angeles River include, but are not limited to, Pacoima Wash, Tujunga Wash, Burbank Western Channel, Verdugo Wash, Arroyo Seco, Rio Hondo, and Compton Creek.

under its jurisdiction are serviced by appropriate certified *full capture systems* as described in paragraph (a)(3).

ii. A Permittee relying entirely on *full capture systems* shall be deemed in compliance with its interim effluent limitations:

1. By demonstrating that *full capture systems* treat the percentage of drainage areas in the watershed that corresponds to the required trash abatement.
2. Alternatively, a Permittee may propose a schedule for jurisdiction-wide installation of *full capture systems*, targeting first the areas of greatest trash generation (based upon the information on drainage area and litter generation rates by land use provided in Appendices I and III of the Los Angeles River Trash TMDL Staff Report) for the Executive Officer's approval. The Executive Officer shall not approve any such schedule that does not result in timely compliance with the final effluent limitations. A Permittee shall be deemed in compliance with its interim effluent limitations provided it is fully in compliance with any such approved schedule.

(b) Partial Capture Devices and Institutional Controls: Permittees may comply with their interim and final effluent limitations through the installation of *partial capture devices* and the application of *institutional controls*.[16]

1) Trash discharges from areas serviced solely by *partial capture devices* may be estimated based on demonstrated performance of the device(s) in the jurisdictional area.[17] That is, trash reduction is equivalent to the *partial capture devices'* trash removal efficiency multiplied by the percentage of drainage area serviced by the devices.
2) Except as provided in subdivision 3), below, trash discharges from areas addressed by *institutional controls* and/or *partial capture devices* (where site-specific performance data is not available) shall be calculated using a mass balance approach, based on the daily generation rate (DGR) for a representative area.[18] The DGR shall be determined from direct measurement of

[16] While interim effluent limitations may be complied with using partial capture devices, compliance with final effluent limitations cannot be achieved with the exclusive use of partial capture devices.
[17] Performance shall be demonstrated under different conditions (e.g. low to high trash loading).
[18] The area should be representative of the land uses within the jurisdiction and shall be approved by the Executive Officer prior to the 30-day collection period.

trash deposited in the drainage area during any thirty-day period between June 22nd and September 22nd exclusive of rain events[19], and shall be re-calculated every year thereafter. The DGR shall be calculated as the total amount of trash collected during this period divided by 30 (the length of the collection period).

DGR = (Amount of trash collected during a 30-day collection period[20]) / (30 days)

The DGR for the applicable area of the jurisdiction shall be extrapolated from that of the representative drainage area. A mass balance equation shall be used to estimate the amount of trash discharged during a storm event.[21] The *Storm Event Trash Discharge* for a given rain event in a Permittee's drainage area shall be calculated by multiplying the number of days since the last street sweeping by the DGR and subtracting the amount of any trash recovered in the catch basins.[22] For each day of a storm event that generates precipitation greater than 0.25 inches, the Permittee shall calculate a *Storm Event Trash Discharge*.

Storm Event Trash Discharge = [(Days since last street sweeping*DGR)] – [Amount of trash recovered from catch basins][23]

The sum of the *Storm Event Trash Discharges* for the storm year shall be the Permittee's calculated annual trash discharge.

Total Storm Year Trash Discharge = ∑Storm Event Trash Discharges from Drainage Area

3) The Executive Officer may approve alternative compliance monitoring approaches for calculating total storm year trash discharge, upon finding that the program will provide a scientifically-based estimate of the amount of trash discharged from the MS4.

(c) Combined Compliance Approaches:

[19] Provided no special events are scheduled that may affect the representative nature of that collection period.
[20] Between June 22nd and September 22nd
[21] Amount of trash shall refer to the uncompressed volume (in gallons) or drip-dry weight (in pounds) of trash collected.
[22] Any negative values shall be considered to represent a zero discharge.
[23] When more than one storm event occurs prior to the next street sweeping the discharge shall be calculated from the date of the last assessment.

Permittees may comply with their interim and final effluent limitations through a combination of *full capture systems*, *partial capture devices*, and *institutional controls*. Permittees relying on a combination of approaches shall demonstrate compliance with the interim and final effluent limitations as specified in (a)(3) in areas where *full capture systems* are installed and as specified in (b)(2) in areas where *partial capture devices* and *institutional controls* are applied.

(2) Permittees that are not in compliance with the applicable interim and/or final effluent limitations as identified in Appendix 7-1 shall be in violation of this permit.

(a) Permittees relying on *partial capture devices* and/or *institutional controls* that have violated their interim or final effluent limitations as identified in Appendix 7-1 shall be presumed to have violated the applicable limitation for each day of each storm event that generated precipitation greater than 0.25 inches during the applicable storm year, except those storm days on which they establish that their cumulative Storm Event Trash Discharges have not exceeded the applicable effluent limitation.

(b) For Permittees relying on full capture systems who have failed to demonstrate that the *full capture systems* for any drainage area are adequately sized and maintained, and that maintenance records are up-to-date and available for inspection by the Regional Board, and that they are in compliance with any conditions of their certification, shall be presumed to have discharged trash in an amount that corresponds to the percentage of the baseline waste load allocation represented by the drainage area in question.

1) A Permittee may overcome this presumption by demonstrating (using any of the methods authorized in this Part 7.1.B(1)(b)) that the actual or calculated discharge for that drainage area is in compliance with the applicable interim or final effluent limitations as specified in Appendix 7-1.

(3) Each Permittee shall be held liable for violations of the Effluent Limitations assigned to its jurisdiction in Appendix 7-1. Any Permittee whose compliance strategy includes full or partial capture devices and who chooses to install a full or partial capture device in the MS4 physical infrastructure of another public entity is responsible for obtaining all necessary permits to do so. If a Permittee believes it is unable to obtain the permits needed to install a full capture or partial capture device within another Permittee's MS4 physical infrastructure, either Permittee may request the Executive Officer to hold a conference with the Permittees. Nothing in this Order shall affect the right of that public entity or a Permittee to seek indemnity or other recourse from the other as they deem appropriate. Nothing in this subsection shall be construed as relieving a Permittee of any liability that the Permittee would otherwise have under this Order.

C. Monitoring and Reporting Requirements (pursuant to Water Code section 13383)

(1) Within 60 days of adoption of Part 7, Section 1 (Los Angeles River Trash TMDL) and on October 31, 2010 and every year thereafter, each Permittee identified in Appendix 7-1 shall submit a TMDL Compliance Report detailing compliance with the interim and final effluent limitations. Reporting shall include the information specified below. The report shall be submitted on a reporting form to be specified by the Executive Officer. The report shall be signed under penalty of perjury by the Director of Public Works or other agency head (or their delegee) that is responsible for ensuring compliance with this permit. Permittees shall be charged with and shall demonstrate compliance with the relevant effluent limitations beginning with their October 31, 2010 TMDL Compliance Report.

(a) Reporting Compliance based on Full Capture Systems: Permittees identified in Appendix 7-1 shall provide information on the number and location of full capture installations, the sizing of each full capture installation, the drainage areas addressed by these installations, and compliance with the applicable interim or final effluent limitation, in their TMDL Compliance Report. The Regional Board will periodically audit sizing, performance, and other data to validate that a system satisfies the criteria established for a *full capture system* and any conditions established by the Executive Officer in the certification.

(b) Reporting Compliance based on Partial Capture Systems and/or Institutional Controls:

(1) Using Performance Data Specific to the Jurisdictional Area: Permittees identified in Appendix 7-1 shall provide (i) site-specific performance data for the applicable device(s), (ii) information on the number and location of such installations, and the drainage areas addressed by these installations, and (iii) calculated compliance with the applicable effluent limitations, in their TMDL Compliance Report.

(2) Using Direct Measurement of Trash Discharge: Permittees identified in Appendix 7-1 shall provide an accounting of DGR and trash removal via street sweeping, catch basin clean outs, etc., in a database to facilitate the calculation of discharge for each rain event. The database shall be maintained and provided to the Regional Board for inspection upon request. Permittees identified in Appendix 7-1 shall provide the annual DGR, calculated storm year discharge, and compliance with the applicable effluent limitation, in their TMDL Compliance Report.

(c) Reporting Compliance based on Combined Compliance Approaches:
Permittees identified in Appendix 7-1 shall provide the information specified in subsection (a) for areas where full capture systems are installed and that specified in subsection (b)(1) or (b)(2), as appropriate, for areas where partial capture devices and institutional controls are applied. Permittees shall also provide information on compliance with the applicable effluent limitation based on the combined compliance approaches, in their TMDL Compliance Report

(2) Violation of the reporting requirements of this Part shall be punishable pursuant to inter alia Water Code subdivision (a)(1) of section 13385.1 and/or subdivision (a)(3) of section 13385.

I, Samuel Unger, Regional Board Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of the Order amended by the California Regional Water Quality Control Board, Los Angeles Region, pursuant to the peremptory writ of mandate in L.A. Superior Court Case No. BS122724, and that such action occurred on April 14, 2011.

Samuel Unger

Samuel Unger, P.E.
Executive Officer

EXHIBIT C

WATER CODE
SECTION 13000-13002

13000. The Legislature finds and declares that the people of the state have a primary interest in the conservation, control, and utilization of the water resources of the state, and that the quality of all the waters of the state shall be protected for use and enjoyment by the people of the state.

The Legislature further finds and declares that activities and factors which may affect the quality of the waters of the state shall be regulated to attain the highest water quality which is reasonable, considering all demands being made and to be made on those waters and the total values involved, beneficial and detrimental, economic and social, tangible and intangible.

The Legislature further finds and declares that the health, safety and welfare of the people of the state requires that there be a statewide program for the control of the quality of all the waters of the state; that the state must be prepared to exercise its full power and jurisdiction to protect the quality of waters in the state from degradation originating inside or outside the boundaries of the state; that the waters of the state are increasingly influenced by interbasin water development projects and other statewide considerations; that factors of precipitation, topography, population, recreation, agriculture, industry and economic development vary from region to region within the state; and that the statewide program for water quality control can be most effectively administered regionally, within a framework of statewide coordination and policy.

13001. It is the intent of the Legislature that the state board and each regional board shall be the principal state agencies with primary responsibility for the coordination and control of water quality. The state board and regional boards in exercising any power granted in this division shall conform to and implement the policies of this chapter and shall, at all times, coordinate their respective activities so as to achieve a unified and effective water quality control program in this state.

13002. No provision of this division or any ruling of the state board or a regional board is a limitation:

(a) On the power of a city or county or city and county to adopt and enforce additional regulations, not in conflict therewith, imposing further conditions, restrictions, or limitations with respect to the disposal of waste or any other activity which might degrade the quality of the waters of the state.

(b) On the power of any city or county or city and county to declare, prohibit, and abate nuisances.

WATER CODE
SECTION 13260-13275

13260. (a) Each of the following persons shall file with the appropriate regional board a report of the discharge, containing the information that may be required by the regional board:

(1) A person discharging waste, or proposing to discharge waste, within any region that could affect the quality of the waters of the state, other than into a community sewer system.

(2) A person who is a citizen, domiciliary, or political agency or entity of this state discharging waste, or proposing to discharge waste, outside the boundaries of the state in a manner that could affect the quality of the waters of the state within any region.

(3) A person operating, or proposing to construct, an injection well.

(b) No report of waste discharge need be filed pursuant to subdivision (a) if the requirement is waived pursuant to Section 13269.

(c) Each person subject to subdivision (a) shall file with the appropriate regional board a report of waste discharge relative to any material change or proposed change in the character, location, or volume of the discharge.

(d) (1) (A) Each person who is subject to subdivision (a) or (c) shall submit an annual fee according to a fee schedule established by the state board.

(B) The total amount of annual fees collected pursuant to this section shall equal that amount necessary to recover costs incurred in connection with the issuance, administration, reviewing, monitoring, and enforcement of waste discharge requirements and waivers of waste discharge requirements.

(C) Recoverable costs may include, but are not limited to, costs incurred in reviewing waste discharge reports, prescribing terms of waste discharge requirements and monitoring requirements, enforcing and evaluating compliance with waste discharge requirements and waiver requirements, conducting surface water and groundwater monitoring and modeling, analyzing laboratory samples, adopting, reviewing, and revising water quality control plans and state policies for water quality control, and reviewing documents prepared for the purpose of regulating the discharge of waste, and administrative costs incurred in connection with carrying out these actions.

(D) In establishing the amount of a fee that may be imposed on a confined animal feeding and holding operation pursuant to this section, including, but not limited to, a dairy farm, the state board shall consider all of the following factors:

(i) The size of the operation.

(ii) Whether the operation has been issued a permit to operate pursuant to Section 1342 of Title 33 of the United States Code.

(iii) Any applicable waste discharge requirement or conditional waiver of a waste discharge requirement.

(iv) The type and amount of discharge from the operation.

(v) The pricing mechanism of the commodity produced.

(vi) Any compliance costs borne by the operation pursuant to state and federal water quality regulations.

(vii) Whether the operation participates in a quality assurance program certified by a regional water quality control board, the state board, or a federal water quality control agency.

(2) (A) Subject to subparagraph (B), the fees collected pursuant to this section shall be deposited in the Waste Discharge Permit Fund, which is hereby created. The money in the fund is available for expenditure by the state board, upon appropriation by the Legislature, solely for the purposes of carrying out this division.

(B) (i) Notwithstanding subparagraph (A), the fees collected pursuant to this section from stormwater dischargers that are subject to a general industrial or construction stormwater permit under the national pollutant discharge elimination system (NPDES) shall be separately accounted for in the Waste Discharge Permit Fund.

(ii) Not less than 50 percent of the money in the Waste Discharge Permit Fund that is separately accounted for pursuant to clause (i) is available, upon appropriation by the Legislature, for expenditure by the regional board with jurisdiction over the permitted industry or construction site that generated the fee to carry out stormwater programs in the region.

(iii) Each regional board that receives money pursuant to clause (ii) shall spend not less than 50 percent of that money solely on stormwater inspection and regulatory compliance issues associated with industrial and construction stormwater programs.

(3) A person who would be required to pay the annual fee prescribed by paragraph (1) for waste discharge requirements applicable to discharges of solid waste, as defined in Section 40191 of the Public Resources Code, at a waste management unit that is also regulated under Division 30 (commencing with Section 40000) of the Public Resources Code, shall be entitled to a waiver of the annual fee for the discharge of solid waste at the waste management unit imposed by paragraph (1) upon verification by the state board of payment of the fee imposed by Section 48000 of the Public Resources Code, and provided that the fee established pursuant to Section 48000 of the Public Resources Code generates revenues sufficient to fund the programs specified in Section 48004 of the Public Resources Code and the amount appropriated by the Legislature for those purposes is not reduced.

(e) Each person that discharges waste in a manner regulated by this section shall pay an annual fee to the state board. The state board shall establish, by regulation, a timetable for the payment of the annual fee. If the state board or a regional board determines that the discharge will not affect, or have the potential to affect, the quality of the waters of the state, all or part of the annual fee shall be refunded.

(f) (1) The state board shall adopt, by emergency regulations, a schedule of fees authorized under subdivision (d). The total revenue collected each year through annual fees shall be set at an amount equal to the revenue levels set forth in the Budget Act for this activity. The state board shall automatically adjust the annual fees each fiscal year to conform with the revenue levels set forth in the Budget Act for this activity. If the state board determines that the revenue collected during the preceding year was greater than, or less than, the revenue levels set forth in the Budget Act, the state board may further adjust the annual fees to compensate for the over

and under collection of revenue.

(2) The emergency regulations adopted pursuant to this subdivision, any amendment thereto, or subsequent adjustments to the annual fees, shall be adopted by the state board in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulations adopted by the state board, or adjustments to the annual fees made by the state board pursuant to this section, shall not be subject to review by the Office of Administrative Law and shall remain in effect until revised by the state board.

(g) The state board shall adopt regulations setting forth reasonable time limits within which the regional board shall determine the adequacy of a report of waste discharge submitted under this section.

(h) Each report submitted under this section shall be sworn to, or submitted under penalty of perjury.

(i) The regulations adopted by the state board pursuant to subdivision (f) shall include a provision that annual fees shall not be imposed on those who pay fees under the national pollutant discharge elimination system until the time when those fees are again due, at which time the fees shall become due on an annual basis.

(j) A person operating or proposing to construct an oil, gas, or geothermal injection well subject to paragraph (3) of subdivision (a) shall not be required to pay a fee pursuant to subdivision (d) if the injection well is regulated by the Division of Oil and Gas of the Department of Conservation, in lieu of the appropriate California regional water quality control board, pursuant to the memorandum of understanding, entered into between the state board and the Department of Conservation on May 19, 1988. This subdivision shall remain operative until the memorandum of understanding is revoked by the state board or the Department of Conservation.

(k) In addition to the report required by subdivision (a), before a person discharges mining waste, the person shall first submit both of the following to the regional board:

(1) A report on the physical and chemical characteristics of the waste that could affect its potential to cause pollution or contamination. The report shall include the results of all tests required by regulations adopted by the board, any test adopted by the Department of Toxic Substances Control pursuant to Section 25141 of the Health and Safety Code for extractable, persistent, and bioaccumulative toxic substances in a waste or other material, and any other tests that the state board or regional board may require, including, but not limited to, tests needed to determine the acid-generating potential of the mining waste or the extent to which hazardous substances may persist in the waste after disposal.

(2) A report that evaluates the potential of the discharge of the mining waste to produce, over the long term, acid mine drainage, the discharge or leaching of heavy metals, or the release of other hazardous substances.

(l) Except upon the written request of the regional board, a report of waste discharge need not be filed pursuant to subdivision (a) or (c) by a user of recycled water that is being supplied by a

supplier or distributor of recycled water for whom a master recycling permit has been issued pursuant to Section 13523.1.

13260.2. (a) The state board shall establish a fee in an amount sufficient to recover its costs in reviewing, processing, and enforcing "no exposure" certifications issued to facilities that apply for those certifications in accordance with a general industrial stormwater permit.

(b) Revenue generated pursuant to this section shall be deposited in the Waste Discharge Permit Fund.

13260.3. On or before January 1 of each year, the state board shall report to the Governor and the Legislature on the expenditure of annual fees collected pursuant to Section 13260.

13261. (a) A person who fails to furnish a report or pay a fee under Section 13260 when so requested by a regional board is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b).

(b) (1) Civil liability may be administratively imposed by a regional board or the state board in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 for a violation of subdivision (a) in an amount not exceeding one thousand dollars ($1,000) for each day in which the violation occurs. Civil liability shall not be imposed by the regional board pursuant to this section if the state board has imposed liability against the same person for the same violation.

(2) Civil liability may be imposed by the superior court in accordance with Article 5 (commencing with Section 13350) and Article 6 (commencing with Section 13360) of Chapter 5 for a violation of subdivision (a) in an amount not exceeding five thousand dollars ($5,000) for each day the violation occurs.

(c) A person who discharges or proposes to discharge hazardous waste, as defined in Section 25117 of the Health and Safety Code, who knowingly furnishes a false report under Section 13260, or who either willfully fails to furnish a report or willfully withholds material information under Section 13260 despite actual knowledge of that requirement, may be liable in accordance with subdivision (d) and is guilty of a misdemeanor.

This subdivision does not apply to any waste discharge that is subject to Chapter 5.5 (commencing with Section 13370).

(d) (1) Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 for a violation of subdivision (c) in an amount not exceeding five thousand dollars ($5,000) for each day the violation occurs.

(2) Civil liability may be imposed by the superior court in accordance with Article 5 (commencing with Section 13350) and Article 6 (commencing with Section 13360) of Chapter 5 for a violation of subdivision (c) in an amount not exceeding twenty-five thousand dollars ($25,000).

13262. The Attorney General, at the request of the regional board or the state board, shall petition the superior court for the issuance of a temporary restraining order, temporary injunction, or permanent injunction, or combination thereof, as may be appropriate, requiring any person not complying with Section 13260 to comply therewith.

13263. (a) The regional board, after any necessary hearing, shall prescribe requirements as to the nature of any proposed discharge, existing discharge, or material change in an existing discharge, except discharges into a community sewer system, with relation to the conditions existing in the disposal area or receiving waters upon, or into which, the discharge is made or proposed. The requirements shall implement any relevant water quality control plans that have been adopted, and shall take into consideration the beneficial uses to be protected, the water quality objectives reasonably required for that purpose, other waste discharges, the need to prevent nuisance, and the provisions of Section 13241.

(b) A regional board, in prescribing requirements, need not authorize the utilization of the full waste assimilation capacities of the receiving waters.

(c) The requirements may contain a time schedule, subject to revision in the discretion of the board.

(d) The regional board may prescribe requirements although no discharge report has been filed.

(e) Upon application by any affected person, or on its own motion, the regional board may review and revise requirements. All requirements shall be reviewed periodically.

(f) The regional board shall notify in writing the person making or proposing the discharge or the change therein of the discharge requirements to be met. After receipt of the notice, the person so notified shall provide adequate means to meet the requirements.

(g) No discharge of waste into the waters of the state, whether or not the discharge is made pursuant to waste discharge requirements, shall create a vested right to continue the discharge. All discharges of waste into waters of the state are privileges, not rights.

(h) The regional board may incorporate the requirements prescribed pursuant to this section into a master recycling permit for either a supplier or distributor, or both, of recycled water.

(i) The state board or a regional board may prescribe general waste discharge requirements for a category of discharges if the state board or that regional board finds or determines that all of the following criteria apply to the discharges in that category:

(1) The discharges are produced by the same or similar operations.

(2) The discharges involve the same or similar types of waste.

(3) The discharges require the same or similar treatment standards.

(4) The discharges are more appropriately regulated under general discharge requirements than individual discharge requirements.

(j) The state board, after any necessary hearing, may prescribe waste discharge requirements in accordance with this section.

WATER CODE
SECTION 13370-13389

13370. The Legislature finds and declares as follows:

(a) The Federal Water Pollution Control Act (33 U.S.C. Sec. 1251 et seq.), as amended, provides for permit systems to regulate the discharge of pollutants and dredged or fill material to the navigable waters of the United States and to regulate the use and disposal of sewage sludge.

(b) The Federal Water Pollution Control Act, as amended, provides that permits may be issued by states which are authorized to implement the provisions of that act.

(c) It is in the interest of the people of the state, in order to avoid direct regulation by the federal government of persons already subject to regulation under state law pursuant to this division, to enact this chapter in order to authorize the state to implement the provisions of the Federal Water Pollution Control Act and acts amendatory thereof or supplementary thereto, and federal regulations and guidelines issued pursuant thereto, provided, that the state board shall request federal funding under the Federal Water Pollution Control Act for the purpose of carrying out its responsibilities under this program.

13370.5. (a) The Legislature finds and declares that, since the Federal Water Pollution Control Act (33 U.S.C. Sec. 1251 et seq.), as amended, and applicable federal regulations (40 C.F.R. 403 et seq.) provide for a pretreatment program to regulate the discharge of pollutants into publicly owned treatment works and provide that states with approved national pollutant discharge elimination system (NPDES) permit programs shall apply for approval of a state pretreatment program, it is in the interest of the people of the state to enact this section in order to avoid direct regulation by the federal government of publicly owned treatment works already subject to regulation under state law pursuant to this division.

(b) The state board shall develop a state pretreatment program and shall, not later than September 1, 1985, apply to the Environmental Protection Agency for approval of the pretreatment program in accordance with federal requirements.

13372. (a) This chapter shall be construed to ensure consistency with the requirements for state programs implementing the Federal Water Pollution Control Act and acts amendatory thereof or supplementary thereto. To the extent other provisions of this division are consistent with the provisions of this chapter and with the requirements for state programs implementing the Federal Water Pollution Control Act and acts amendatory thereof or supplementary thereto, those provisions apply to actions and procedures provided

for in this chapter. The provisions of this chapter shall prevail over other provisions of this division to the extent of any inconsistency. The provisions of this chapter apply only to actions required under the Federal Water Pollution Control Act and acts amendatory thereof or supplementary thereto.

(b) The provisions of Section 13376 requiring the filing of a report for the discharge of dredged or fill material and the provisions of this chapter relating to the issuance of dredged or fill material permits by the state board or a regional board shall be applicable only to discharges for which the state has an approved permit program, in accordance with the provisions of the Federal Water Pollution Control Act, as amended, for the discharge of dredged or fill material.

13373. The terms "navigable waters," "administrator," "pollutants," "biological monitoring," "discharge" and "point sources" as used in this chapter shall have the same meaning as in the Federal Water Pollution Control Act and acts amendatory thereof or supplementary thereto.

13374. The term "waste discharge requirements" as referred to in this division is the equivalent of the term "permits" as used in the Federal Water Pollution Control Act, as amended.

13375. The discharge of any radiological, chemical, or biological warfare agent into the waters of the state is hereby prohibited.

13376. A person who discharges pollutants or proposes to discharge pollutants to the navigable waters of the United States within the jurisdiction of this state or a person who discharges dredged or fill material or proposes to discharge dredged or fill material into the navigable waters of the United States within the jurisdiction of this state shall file a report of the discharge in compliance with the procedures set forth in Section 13260. Unless required by the state board or a regional board, a report need not be filed under this section for discharges that are not subject to the permit application requirements of the Federal Water Pollution Control Act, as amended. A person who proposes to discharge pollutants or dredged or fill material or to operate a publicly owned treatment works or other treatment works treating domestic sewage shall file a report at least 180 days in advance of the date on which it is desired to commence the discharge of pollutants or dredged or fill material or the operation of the treatment works. A person who owns or operates a publicly owned treatment works or other treatment works treating domestic sewage, which treatment works commenced operation before January 1, 1988, and does not discharge to navigable waters of the United States, shall file a report within 45 days of a written request by a regional board or the state board, or within 45 days after the state has an approved permit program for the use and

disposal of sewage sludge, whichever occurs earlier. The discharge of pollutants or dredged or fill material or the operation of a publicly owned treatment works or other treatment works treating domestic sewage by any person, except as authorized by waste discharge requirements or dredged or fill material permits, is prohibited. This prohibition does not apply to discharges or operations if a state or federal permit is not required under the Federal Water Pollution Control Act, as amended.

13377. Notwithstanding any other provision of this division, the state board or the regional boards shall, as required or authorized by the Federal Water Pollution Control Act, as amended, issue waste discharge requirements and dredged or fill material permits which apply and ensure compliance with all applicable provisions of the act and acts amendatory thereof or supplementary, thereto, together with any more stringent effluent standards or limitations necessary to implement water quality control plans, or for the protection of beneficial uses, or to prevent nuisance.

13378. Waste discharge requirements and dredged or fill material permits shall be adopted only after notice and any necessary hearing. Such requirements or permits shall be adopted for a fixed term not to exceed five years for any proposed discharge, existing discharge, or any material change therein.

13380. Any waste discharge requirements or dredged or fill material permits adopted under this chapter shall be reviewed at least every five years and, if appropriate, revised.

13381. Waste discharge requirements or dredged or fill material permits may be terminated or modified for cause, including, but not limited to, all of the following:

(a) Violation of any condition contained in the requirements or permits.

(b) Obtaining the requirements by misrepresentation, or failure to disclose fully all relevant facts.

(c) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

13382. Waste discharge requirements shall be adopted to control the disposal of pollutants into wells or in areas where pollutants may enter into a well from the surrounding groundwater.

13382.5. Waste discharge requirements shall be adopted to permit the discharge of a specific pollutant or pollutants in a controlled

manner from a point source to a defined managed aquaculture project if such discharge meets all applicable requirements of the Federal Water Pollution Control Act and acts amendatory thereof and supplementary thereto, together with any more stringent effluent standards or limitations necessary to implement water quality control plans.

13383. (a) The state board or a regional board may establish monitoring, inspection, entry, reporting, and recordkeeping requirements, as authorized by Section 13160, 13376, or 13377 or by subdivisions (b) and (c) of this section, for any person who discharges, or proposes to discharge, to navigable waters, any person who introduces pollutants into a publicly owned treatment works, any person who owns or operates, or proposes to own or operate, a publicly owned treatment works or other treatment works treating domestic sewage, or any person who uses or disposes, or proposes to use or dispose, of sewage sludge.

(b) The state board or the regional boards may require any person subject to this section to establish and maintain monitoring equipment or methods, including, where appropriate, biological monitoring methods, sample effluent as prescribed, and provide other information as may be reasonably required.

(c) The state board or a regional board may inspect the facilities of any person subject to this section pursuant to the procedure set forth in subdivision (c) of Section 13267.

13383.5. (a) As used in this section, "regulated municipalities and industries" means the municipalities and industries required to obtain a storm water permit under Section 402(p) of the Clean Water Act (33 U.S.C. Sec. 1342(p)) and implementing regulations.

(b) This section only applies to regulated municipalities that were subject to a storm water permit on or before December 31, 2001, and to regulated industries that are subject to the General Permit for Storm Water Discharges Associated with Industrial Activities Excluding Construction Activities.

(c) Before January 1, 2003, the state board shall develop minimum monitoring requirements for each regulated municipality and minimum standard monitoring requirements for regulated industries. This program shall include, but is not limited to, all of the following:

(1) Standardized methods for collection of storm water samples.

(2) Standardized methods for analysis of storm water samples.

(3) A requirement that every sample analysis under this program be completed by a state certified laboratory or by the regulated municipality or industry in the field in accordance with the quality assurance and quality control protocols established pursuant to this section.

(4) A standardized reporting format.

(5) Standard sampling and analysis programs for quality assurance and quality control.

(6) Minimum detection limits.

(7) Annual reporting requirements for regulated municipalities and industries.

(8) For the purposes of determining constituents to be sampled for, sampling intervals, and sampling frequencies, to be included in

a municipal storm water permit monitoring program, the regional board shall consider the following information, as the regional board determines to be applicable:

(A) Discharge characterization monitoring data.

(B) Water quality data collected through the permit monitoring program.

(C) Applicable water quality data collected, analyzed, and reported by federal, state, and local agencies, and other public and private entities.

(D) Any applicable listing under Section 303(d) of the Clean Water Act (33 U.S.C. Sec. 1313).

(E) Applicable water quality objectives and criteria established in accordance with the regional board basin plans, statewide plans, and federal regulations.

(F) Reports and studies regarding source contribution of pollutants in runoff not based on direct water quality measurements.

(d) The requirements prescribed pursuant to this section shall be included in all storm water permits for regulated municipalities and industries that are reissued following development of the requirements described in subdivision (c). Those permits shall include these provisions on or before July 1, 2008. In a year in which the Legislature appropriates sufficient funds for that purpose, the state board shall make available to the public via the Internet a summary of the results obtained from storm water monitoring conducted in accordance with this section.

13383.6. On and after January 1, 2007, if a regional board or the state board issues a municipal stormwater permit pursuant to Section 402(p) of the Clean Water Act (33 U.S.C. Sec. 1342(p)) that includes a requirement to provide elementary and secondary public schools with educational materials on stormwater pollution, the permittee may satisfy the requirement, upon approval by the regional board or state board, by contributing an equivalent amount of funds to the Environmental Education Account established pursuant to subdivision (a) of Section 71305 of the Public Resources Code.

13383.7. (a) No later than July 1, 2009, and after holding public workshops and soliciting public comments, the state board shall develop a comprehensive guidance document for evaluating and measuring the effectiveness of municipal stormwater management programs undertaken, and permits issued, in accordance with Section 402(p) of the Clean Water Act (33 U.S.C. Sec. 1342(p)) and this division.

(b) For the purpose of implementing subdivision (a), the state board shall promote the use of quantifiable measures for evaluating the effectiveness of municipal stormwater management programs and provide for the evaluation of, at a minimum, all of the following:

(1) Compliance with stormwater permitting requirements, including all of the following:

(A) Inspection programs.

(B) Construction controls.

(C) Elimination of unlawful discharges.

(D) Public education programs.

(E) New development and redevelopment requirements.

(2) Reduction of pollutant loads from pollution sources.

(3) Reduction of pollutants or stream erosion due to stormwater discharge.

(4) Improvements in the quality of receiving water in accordance with water quality standards.

(c) The state board and the regional boards shall refer to the guidance document developed pursuant to subdivision (a) when establishing requirements in municipal stormwater programs and permits.

13383.8. (a) The state board shall appoint a stormwater management task force comprised of public agencies, representatives of the regulated community, and nonprofit organizations with expertise in water quality and stormwater management. The task force shall provide advice to the state board on its stormwater management program that may include, but is not limited to, program priorities, funding criteria, project selection, and interagency coordination of state programs that address stormwater management.

(b) The state board shall submit a report, including, but not limited to, stormwater and other polluted runoff control information, to the Ocean Protection Council no later than January 1, 2009, on the way in which the state board is implementing the priority goals and objectives of the council's strategic plan.

13384. The state board or the regional boards shall ensure that the public, and that any other state, the waters of which may be affected by any discharge of pollutants or dredged or fill material to navigable waters within this state, shall receive notice of each application for requirements or report of waste discharge or application for a dredged or fill material permit or report of dredged or fill material discharge and are provided an opportunity for public hearing before adoption of such requirements or permit.

13385. (a) A person who violates any of the following shall be liable civilly in accordance with this section:

(1) Section 13375 or 13376.

(2) A waste discharge requirement or dredged or fill material permit issued pursuant to this chapter or any water quality certification issued pursuant to Section 13160.

(3) A requirement established pursuant to Section 13383.

(4) An order or prohibition issued pursuant to Section 13243 or Article 1 (commencing with Section 13300) of Chapter 5, if the activity subject to the order or prohibition is subject to regulation under this chapter.

(5) A requirement of Section 301, 302, 306, 307, 308, 318, 401, or 405 of the federal Clean Water Act (33 U.S.C. Sec. 1311, 1312, 1316, 1317, 1318, 1341, or 1345), as amended.

(6) A requirement imposed in a pretreatment program approved pursuant to waste discharge requirements issued under Section 13377 or approved pursuant to a permit issued by the administrator.

(b) (1) Civil liability may be imposed by the superior court in an amount not to exceed the sum of both of the following:

(A) Twenty-five thousand dollars ($25,000) for each day in which the violation occurs.

(B) 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 twenty-five dollars ($25) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.

(2) The Attorney General, upon request of a regional board or the state board, shall petition the superior court to impose the liability.

(c) 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.

(d) For purposes of subdivisions (b) and (c), "discharge" includes any discharge to navigable waters of the United States, any introduction of pollutants into a publicly owned treatment works, or any use or disposal of sewage sludge.

(e) In determining the amount of any liability imposed under this section, the regional board, the state board, or the superior court, as the case may be, shall take into account 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.

(f) (1) Except as provided in paragraph (2), for the purposes of this section, a single operational upset that leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.

(2) (A) For the purposes of subdivisions (h) and (i), a single operational upset in a wastewater treatment unit that treats wastewater using a biological treatment process shall be treated as a single violation, even if the operational upset results in violations of more than one effluent limitation and the violations continue for a period of more than one day, if all of the following apply:

(i) The discharger demonstrates all of the following:

(I) The upset was not caused by wastewater treatment operator error and was not due to discharger negligence.

(II) But for the operational upset of the biological treatment

process, the violations would not have occurred nor would they have continued for more than one day.

(III) The discharger carried out all reasonable and immediately feasible actions to reduce noncompliance with the applicable effluent limitations.

(ii) The discharger is implementing an approved pretreatment program, if so required by federal or state law.

(B) Subparagraph (A) only applies to violations that occur during a period for which the regional board has determined that violations are unavoidable, but in no case may that period exceed 30 days.

(g) Remedies under this section are in addition to, and do not supersede or limit, any other remedies, civil or criminal, except that no liability shall be recoverable under Section 13261, 13265, 13268, or 13350 for violations for which liability is recovered under this section.

(h) (1) Notwithstanding any other provision of this division, and except as provided in subdivisions (j), (k), and (l), a mandatory minimum penalty of three thousand dollars ($3,000) shall be assessed for each serious violation.

(2) For the purposes of this section, a "serious violation" means any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for a Group II pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 20 percent or more or for a Group I pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 40 percent or more.

(i) (1) Notwithstanding any other provision of this division, and except as provided in subdivisions (j), (k), and (l), a mandatory minimum penalty of three thousand dollars ($3,000) shall be assessed for each violation whenever the person does any of the following four or more times in any period of six consecutive months, except that the requirement to assess the mandatory minimum penalty shall not be applicable to the first three violations:

(A) Violates a waste discharge requirement effluent limitation.

(B) Fails to file a report pursuant to Section 13260.

(C) Files an incomplete report pursuant to Section 13260.

(D) Violates a toxicity effluent limitation contained in the applicable waste discharge requirements where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.

(2) For the purposes of this section, a "period of six consecutive months" means the period commencing on the date that one of the violations described in this subdivision occurs and ending 180 days after that date.

(j) Subdivisions (h) and (i) do not apply to any of the following:

(1) A violation caused by one or any combination of the following:

(A) An act of war.

(B) An unanticipated, grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character, the effects of which could not have been prevented or avoided by the exercise of due care or foresight.

(C) An intentional act of a third party, the effects of which could not have been prevented or avoided by the exercise of due care or foresight.

(D) (i) The operation of a new or reconstructed wastewater treatment unit during a defined period of adjusting or testing, not to exceed 90 days for a wastewater treatment unit that relies on a

biological treatment process and not to exceed 30 days for any other wastewater treatment unit, if all of the following requirements are met:

(I) The discharger has submitted to the regional board, at least 30 days in advance of the operation, an operations plan that describes the actions the discharger will take during the period of adjusting and testing, including steps to prevent violations and identifies the shortest reasonable time required for the period of adjusting and testing, not to exceed 90 days for a wastewater treatment unit that relies on a biological treatment process and not to exceed 30 days for any other wastewater treatment unit.

(II) The regional board has not objected in writing to the operations plan.

(III) The discharger demonstrates that the violations resulted from the operation of the new or reconstructed wastewater treatment unit and that the violations could not have reasonably been avoided.

(IV) The discharger demonstrates compliance with the operations plan.

(V) In the case of a reconstructed wastewater treatment unit, the unit relies on a biological treatment process that is required to be out of operation for at least 14 days in order to perform the reconstruction, or the unit is required to be out of operation for at least 14 days and, at the time of the reconstruction, the cost of reconstructing the unit exceeds 50 percent of the cost of replacing the wastewater treatment unit.

(ii) For the purposes of this section, "wastewater treatment unit" means a component of a wastewater treatment plant that performs a designated treatment function.

(2) (A) Except as provided in subparagraph (B), a violation of an effluent limitation where the waste discharge is in compliance with either a cease and desist order issued pursuant to Section 13301 or a time schedule order issued pursuant to Section 13300, if all of the following requirements are met:

(i) The cease and desist order or time schedule order is issued after January 1, 1995, but not later than July 1, 2000, specifies the actions that the discharger is required to take in order to correct the violations that would otherwise be subject to subdivisions (h) and (i), and the date by which compliance is required to be achieved and, if the final date by which compliance is required to be achieved is later than one year from the effective date of the cease and desist order or time schedule order, specifies the interim requirements by which progress towards compliance will be measured and the date by which the discharger will be in compliance with each interim requirement.

(ii) The discharger has prepared and is implementing in a timely and proper manner, or is required by the regional board to prepare and implement, a pollution prevention plan that meets the requirements of Section 13263.3.

(iii) The discharger demonstrates that it has carried out all reasonable and immediately feasible actions to reduce noncompliance with the waste discharge requirements applicable to the waste discharge and the executive officer of the regional board concurs with the demonstration.

(B) Subdivisions (h) and (i) shall become applicable to a waste discharge on the date the waste discharge requirements applicable to the waste discharge are revised and reissued pursuant to Section 13380, unless the regional board does all of the following on or

before that date:

(i) Modifies the requirements of the cease and desist order or time schedule order as may be necessary to make it fully consistent with the reissued waste discharge requirements.

(ii) Establishes in the modified cease and desist order or time schedule order a date by which full compliance with the reissued waste discharge requirements shall be achieved. For the purposes of this subdivision, the regional board may not establish this date later than five years from the date the waste discharge requirements were required to be reviewed pursuant to Section 13380. If the reissued waste discharge requirements do not add new effluent limitations or do not include effluent limitations that are more stringent than those in the original waste discharge requirements, the date shall be the same as the final date for compliance in the original cease and desist order or time schedule order or five years from the date that the waste discharge requirements were required to be reviewed pursuant to Section 13380, whichever is earlier.

(iii) Determines that the pollution prevention plan required by clause (ii) of subparagraph (A) is in compliance with the requirements of Section 13263.3 and that the discharger is implementing the pollution prevention plan in a timely and proper manner.

(3) A violation of an effluent limitation where the waste discharge is in compliance with either a cease and desist order issued pursuant to Section 13301 or a time schedule order issued pursuant to Section 13300 or 13308, if all of the following requirements are met:

(A) The cease and desist order or time schedule order is issued on or after July 1, 2000, and specifies the actions that the discharger is required to take in order to correct the violations that would otherwise be subject to subdivisions (h) and (i).

(B) The regional board finds that, for one of the following reasons, the discharger is not able to consistently comply with one or more of the effluent limitations established in the waste discharge requirements applicable to the waste discharge:

(i) The effluent limitation is a new, more stringent, or modified regulatory requirement that has become applicable to the waste discharge after the effective date of the waste discharge requirements and after July 1, 2000, new or modified control measures are necessary in order to comply with the effluent limitation, and the new or modified control measures cannot be designed, installed, and put into operation within 30 calendar days.

(ii) New methods for detecting or measuring a pollutant in the waste discharge demonstrate that new or modified control measures are necessary in order to comply with the effluent limitation and the new or modified control measures cannot be designed, installed, and put into operation within 30 calendar days.

(iii) Unanticipated changes in the quality of the municipal or industrial water supply available to the discharger are the cause of unavoidable changes in the composition of the waste discharge, the changes in the composition of the waste discharge are the cause of the inability to comply with the effluent limitation, no alternative water supply is reasonably available to the discharger, and new or modified measures to control the composition of the waste discharge cannot be designed, installed, and put into operation within 30 calendar days.

(iv) The discharger is a publicly owned treatment works located in

Orange County that is unable to meet effluent limitations for biological oxygen demand, suspended solids, or both, because the publicly owned treatment works meets all of the following criteria:

(I) Was previously operating under modified secondary treatment requirements pursuant to Section 301(h) of the Clean Water Act (33 U.S.C. Sec. 1311(h)).

(II) Did vote on July 17, 2002, not to apply for a renewal of the modified secondary treatment requirements.

(III) Is in the process of upgrading its treatment facilities to meet the secondary treatment standards required by Section 301(b)(1)(B) of the Clean Water Act (33 U.S.C. Sec. 1311(b)(1)(B)).

(C) (i) The regional board establishes a time schedule for bringing the waste discharge into compliance with the effluent limitation that is as short as possible, taking into account the technological, operational, and economic factors that affect the design, development, and implementation of the control measures that are necessary to comply with the effluent limitation. Except as provided in clause (ii), for the purposes of this subdivision, the time schedule shall not exceed five years in length.

(ii) (I) For purposes of the upgrade described in subclause (III) of clause (iv) of subparagraph (B), the time schedule shall not exceed 10 years in length.

(II) Following a public hearing, and upon a showing that the discharger is making diligent progress toward bringing the waste discharge into compliance with the effluent limitation, the regional board may extend the time schedule for an additional period not exceeding five years in length, if the discharger demonstrates that the additional time is necessary to comply with the effluent limitation. This subclause does not apply to a time schedule described in subclause (I).

(iii) If the time schedule exceeds one year from the effective date of the order, the schedule shall include interim requirements and the dates for their achievement. The interim requirements shall include both of the following:

(I) Effluent limitations for the pollutant or pollutants of concern.

(II) Actions and milestones leading to compliance with the effluent limitation.

(D) The discharger has prepared and is implementing in a timely and proper manner, or is required by the regional board to prepare and implement, a pollution prevention plan pursuant to Section 13263.3.

(k) (1) In lieu of assessing all or a portion of the mandatory minimum penalties pursuant to subdivisions (h) and (i) against a publicly owned treatment works serving a small community, the state board or the regional board may elect to require the publicly owned treatment works to spend an equivalent amount towards the completion of a compliance project proposed by the publicly owned treatment works, if the state board or the regional board finds all of the following:

(A) The compliance project is designed to correct the violations within five years.

(B) The compliance project is in accordance with the enforcement policy of the state board, excluding any provision in the policy that is inconsistent with this section.

(C) The publicly owned treatment works has prepared a financing plan to complete the compliance project.

(2) For the purposes of this subdivision, "a publicly owned treatment works serving a small community" means a publicly owned treatment works serving a population of 10,000 persons or fewer or a rural county, with a financial hardship as determined by the state board after considering such factors as median income of the residents, rate of unemployment, or low population density in the service area of the publicly owned treatment works.

(l) (1) In lieu of assessing penalties pursuant to subdivision (h) or (i), the state board or the regional board, with the concurrence of the discharger, may direct a portion of the penalty amount to be expended on a supplemental environmental project in accordance with the enforcement policy of the state board. If the penalty amount exceeds fifteen thousand dollars ($15,000), the portion of the penalty amount that may be directed to be expended on a supplemental environmental project may not exceed fifteen thousand dollars ($15,000) plus 50 percent of the penalty amount that exceeds fifteen thousand dollars ($15,000).

(2) For the purposes of this section, a "supplemental environmental project" means an environmentally beneficial project that a person agrees to undertake, with the approval of the regional board, that would not be undertaken in the absence of an enforcement action under this section.

(3) This subdivision applies to the imposition of penalties pursuant to subdivision (h) or (i) on or after January 1, 2003, without regard to the date on which the violation occurs.

(m) The Attorney General, upon request of a regional board or the state board, shall petition the appropriate court to collect any liability or penalty imposed pursuant to this section. Any person who fails to pay on a timely basis any liability or penalty imposed under this section shall be required to pay, in addition to that liability or penalty, interest, attorney's fees, costs for collection proceedings, and a quarterly nonpayment penalty for each quarter during which the failure to pay persists. The nonpayment penalty shall be in an amount equal to 20 percent of the aggregate amount of the person's penalty and nonpayment penalties that are unpaid as of the beginning of the quarter.

(n) (1) Subject to paragraph (2), funds collected pursuant to this section shall be deposited in the State Water Pollution Cleanup and Abatement Account.

(2) (A) Notwithstanding any other provision of law, moneys collected for a violation of a water quality certification in accordance with paragraph (2) of subdivision (a) or for a violation of Section 401 of the federal Clean Water Act (33 U.S.C. Sec. 1341) in accordance with paragraph (5) of subdivision (a) shall be deposited in the Waste Discharge Permit Fund and separately accounted for in that fund.

(B) The funds described in subparagraph (A) shall be expended by the state board, upon appropriation by the Legislature, to assist regional boards, and other public agencies with authority to clean up waste or abate the effects of the waste, in cleaning up or abating the effects of the waste on waters of the state or for the purposes authorized in Section 13443.

(o) The state board shall continuously report and update information on its Internet Web site, but at a minimum, annually on or before January 1, regarding its enforcement activities. The information shall include all of the following:

(1) A compilation of the number of violations of waste discharge

requirements in the previous calendar year, including stormwater enforcement violations.

(2) A record of the formal and informal compliance and enforcement actions taken for each violation, including stormwater enforcement actions.

(3) An analysis of the effectiveness of current enforcement policies, including mandatory minimum penalties.

(p) The amendments made to subdivisions (f), (h), (i), and (j) during the second year of the 2001-02 Regular Session apply only to violations that occur on or after January 1, 2003.

13385.1. (a) (1) For the purposes of subdivision (h) of Section 13385, a "serious violation" also means a failure to file a discharge monitoring report required pursuant to Section 13383 for each complete period of 30 days following the deadline for submitting the report, if the report is designed to ensure compliance with limitations contained in waste discharge requirements that contain effluent limitations. This paragraph applies only to violations that occur on or after January 1, 2004.

(2) (A) Notwithstanding paragraph (1), a failure to file a discharge monitoring report is not a serious violation for purposes of subdivision (h) of Section 13385 at any time prior to the date a discharge monitoring report is required to be filed or within 30 days after receiving written notice from the state board or a regional board of the need to file a discharge monitoring report, if the discharger submits a written statement to the state board or the regional board that includes both of the following:

(i) A statement that there were no discharges to waters of the United States reportable under the applicable waste discharge requirements during the relevant monitoring period.

(ii) The reason or reasons the required report was not submitted to the regional board by the deadline for filing that report.

(B) Upon the request of the state board or regional board, the discharger may be required to support the statement with additional explanation or evidence.

(C) If, in a statement submitted pursuant to subparagraph (A), the discharger willfully states as true any material fact that he or she knows to be false, that person shall be subject to a civil penalty not exceeding ten thousand dollars ($10,000). Any public prosecutor may bring an action for a civil penalty under this subparagraph in the name of the people of the State of California, and the penalty imposed shall be enforced as a civil judgment.

(D) Notwithstanding subparagraph (A), the failure to file a discharge monitoring report is subject to penalties in accordance with subdivisions (c) and (e) of Section 13385.

(b) (1) Notwithstanding paragraph (1) of subdivision (a), a mandatory minimum penalty shall continue to apply and shall be assessed pursuant to subdivision (h) of Section 13385, but only for each required report that is not timely filed, and shall not be separately assessed for each 30-day period following the deadline for submitting the report, if both of the following conditions are met:

(A) The discharger did not on any occasion previously receive, from the state board or a regional board, a complaint to impose liability pursuant to subdivision (b) or (c) of Section 13385 arising from a failure to timely file a discharge monitoring report, a

notice of violation for failure to timely file a discharge monitoring report, or a notice of the obligation to file a discharge monitoring report required pursuant to Section 13383, in connection with its corresponding waste discharge requirements.

(B) The discharges during the period or periods covered by the report do not violate effluent limitations, as defined in subdivision (d), contained in waste discharge requirements.

(2) Paragraph (1) shall only apply to a discharger who does both of the following:

(A) Files a discharge monitoring report that had not previously been timely filed within 30 days after the discharger receives written notice, including notice transmitted by electronic mail, from the state board or regional board concerning the failure to timely file the report.

(B) Pays all penalties assessed by the state board or regional board in accordance with paragraph (1) within 30 days after an order is issued to pay these penalties pursuant to Section 13385.

(3) Notwithstanding paragraph (1), the failure to file a discharge monitoring report is subject to penalties in accordance with subdivisions (c) and (e) of Section 13385.

(4) This subdivision shall become inoperative on January 1, 2014.

(c) (1) Notwithstanding any other provision of law, moneys collected pursuant to this section for a failure to timely file a report, as described in subdivision (a), shall be deposited in the State Water Pollution Cleanup and Abatement Account.

(2) Notwithstanding Section 13340 of the Government Code, the funds described in paragraph (1) are continuously appropriated, without regard to fiscal years, to the state board for expenditure by the state board to assist regional boards, and other public agencies with authority to clean up waste or abate the effects of the waste, in responding to significant water pollution problems.

(d) For the purposes of this section, paragraph (2) of subdivision (f) of Section 13385, and subdivisions (h), (i), and (j) of Section 13385 only, "effluent limitation" means a numeric restriction or a numerically expressed narrative restriction, on the quantity, discharge rate, concentration, or toxicity units of a pollutant or pollutants that may be discharged from an authorized location. An effluent limitation may be final or interim, and may be expressed as a prohibition. An effluent limitation, for those purposes, does not include a receiving water limitation, a compliance schedule, or a best management practice.

(e) The amendments made to this section by Senate Bill 1284 of the 2009-10 Regular Session of the Legislature shall apply to violations for which an administrative civil liability complaint or a judicial complaint has not been filed before July 1, 2010, without regard to the date on which the violations occurred.

13385.2. (a) Prior to the state board or regional board making its findings pursuant to subdivision (k) of Section 13385, the publicly owned treatment works shall demonstrate to the satisfaction of the state board or regional board that the financing plan prepared pursuant to subparagraph (C) of paragraph (1) of subdivision (k) of that section is designed to generate sufficient funding to complete the compliance project within the time period specified pursuant to subparagraph (A) of paragraph (1) of subdivision (k) of that section.

(b) This section shall only become operative if Senate Bill 1733

of the 2005-06 Regular Session is enacted and becomes operative.

13385.3. (a) The amendments made to subdivision (k) of Section 13385 of the Water Code by Senate Bill 1733 of the 2005-06 Regular Session shall become operative on July 1, 2007.

(b) This section shall only become operative if Senate Bill 1733 of the 2005-06 Regular Session is enacted and becomes operative.

13386. Upon any threatened or continuing violation of any of the requirements listed in paragraphs (1) to (6), inclusive, of subdivision (a) of Section 13385, or upon the failure of any discharger into a public treatment system to comply with any cost or charge adopted by any public agency under Section 204(b) of the Federal Water Pollution Control Act, as amended, the Attorney General, upon the request of the state board or regional board shall petition the appropriate court for the issuance of a preliminary or permanent injunction, or both, as appropriate, restraining that person or persons from committing or continuing the violation. Subdivision (b) of Section 13331 shall be applicable to proceedings under this section.

13387. (a) Any person who knowingly or negligently does any of the following is subject to criminal penalties as provided in subdivisions (b), (c), and (d):

(1) Violates Section 13375 or 13376.

(2) Violates 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) Violates any order or prohibition issued pursuant to Section 13243 or 13301, if the activity subject to the order or prohibition is subject to regulation under this chapter.

(4) Violates any requirement of Section 301, 302, 306, 307, 308, 318, 401, or 405 of the Clean Water Act (33 U.S.C. Sec. 1311, 1312, 1316, 1317, 1318, 1328, 1341, or 1345), as amended.

(5) Introduces into a sewer system or into a publicly owned treatment works any pollutant or hazardous substances that the person knew or reasonably should have known could cause personal injury or property damage.

(6) Introduces any pollutant or hazardous substance into a sewer system or into a publicly owned treatment works, except in accordance with any applicable pretreatment requirements, which causes the treatment works to violate waste discharge requirements.

(b) Any person who negligently commits any of the violations set forth in subdivision (a) shall, upon conviction, be punished by a fine of not less than five thousand dollars ($5,000), nor more than twenty-five thousand dollars ($25,000), for each day in which the violation occurs, by imprisonment for not more than one year in a county jail, or by both that fine and imprisonment. If a conviction of a person is for a violation committed after a first conviction of the person under this subdivision, subdivision (c), or subdivision (d), punishment shall be by a fine of not more than fifty thousand

dollars ($50,000) for each day in which the violation occurs, by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16, 20, or 24 months, or by both that fine and imprisonment.

(c) Any person who knowingly commits any of the violations set forth in subdivision (a) shall, upon conviction, be punished by a fine of not less than five thousand dollars ($5,000), nor more than fifty thousand dollars ($50,000), for each day in which the violation occurs, by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or by both that fine and imprisonment. If a conviction of a person is for a violation committed after a first conviction of the person under this subdivision or subdivision (d), punishment shall be by a fine of not more than one hundred thousand dollars ($100,000) for each day in which the violation occurs, by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for two, four, or six years, or by both that fine and imprisonment.

(d) (1) Any person who knowingly commits any of the violations set forth in subdivision (a), and who knows at the time that the person thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be punished by a fine of not more than two hundred fifty thousand dollars ($250,000), imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 5, 10, or 15 years, or by both that fine and imprisonment. A person that is an organization shall, upon conviction under this subdivision, be subject to a fine of not more than one million dollars ($1,000,000). If a conviction of a person is for a violation committed after a first conviction of the person under this subdivision, the punishment shall be by a fine of not more than five hundred thousand dollars ($500,000), by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 10, 20, or 30 years, or by both that fine and imprisonment. A person that is an organization shall, upon conviction for a violation committed after a first conviction of the person under this subdivision, be subject to a fine of not more than two million dollars ($2,000,000). Any fines imposed pursuant to this subdivision shall be in addition to any fines imposed pursuant to subdivision (c).

(2) In determining whether a defendant who is an individual knew that the defendant's conduct placed another person in imminent danger of death or serious bodily injury, the defendant is responsible only for actual awareness or actual belief that the defendant possessed, and knowledge possessed by a person other than the defendant, but not by the defendant personally, cannot be attributed to the defendant.

(e) Any person who knowingly makes any false statement, representation, or certification in any record, report, plan, notice to comply, or other document filed with a regional board or the state board, or who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method required under this division shall be punished by a fine of not more than twenty-five thousand dollars ($25,000), by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16, 20, or 24 months, or by both that fine and imprisonment. If a conviction of a person is for a violation committed after a first conviction of the person under this subdivision, punishment shall be by a fine of not more than twenty-five thousand dollars ($25,000) per day of violation, by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for two, three, or four years, or by both that fine and

imprisonment.

(f) For purposes of this section, a single operational upset which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.

(g) For purposes of this section, "organization," "serious bodily injury," "person," and "hazardous substance" shall have the same meaning as in Section 309(c) of the Clean Water Act (33 U.S.C. Sec. 1319(c)), as amended.

(h) (1) Subject to paragraph (2), funds collected pursuant to this section shall be deposited in the State Water Pollution Cleanup and Abatement Account.

(2) (A) Notwithstanding any other provision of law, fines collected for a violation of a water quality certification in accordance with paragraph (2) of subdivision (a) or for a violation of Section 401 of the Clean Water Act (33 U.S.C. Sec. 1341) in accordance with paragraph (4) of subdivision (a) shall be deposited in the Water Discharge Permit Fund and separately accounted for in that fund.

(B) The funds described in subparagraph (A) shall be expended by the state board, upon appropriation by the Legislature, to assist regional boards, and other public agencies with authority to clean up waste or abate the effects of the waste, in cleaning up or abating the effects of the waste on waters of the state, or for the purposes authorized in Section 13443.

13388. (a) Notwithstanding any other provision of this division or Section 175, and except as provided in subdivision (b), a person shall not be a member of the state board or a regional board if that person receives, or has received during the previous two years, a significant portion of his or her income directly or indirectly from any person subject to waste discharge requirements or applicants for waste discharge requirements pursuant to this chapter.

(b) (1) A person shall not be disqualified from being a member of a regional board because that person receives, or has received during the previous two years, a significant portion of his or her income directly or indirectly from a person subject to waste discharge requirements, or an applicant for waste discharge requirements, that are issued pursuant to this chapter by the state board or regional board other than the regional board of which that person is a member.

(2) Paragraph (1) shall be implemented only if the United States Environmental Protection Agency either determines that no program approval is necessary for that implementation, or approves of a change in California's National Pollutant Discharge Elimination System program, to allow the state to administer the National Pollutant Discharge Elimination System permit program consistent with paragraph (1).

13389. Neither the state board nor the regional boards shall be required to comply with the provisions of Chapter 3 (commencing with Section 21100) of Division 13 of the Public Resources Code prior to the adoption of any waste discharge requirement, except requirements for new sources as defined in the Federal Water Pollution Control Act or acts amendatory thereof or supplementary thereto.

EXHIBIT D

INFORMATION ON CSOS AND SSOS

Pub. L. 106–554, §1(a)(4) [div. B, title I, §112(d)], Dec. 21, 2000, 114 Stat. 2763, 2763A–227, provided that:

"(1) REPORT TO CONGRESS.—Not later than 3 years after the date of enactment of this Act [Dec. 21, 2000], the Administrator of the Environmental Protection Agency shall transmit to Congress a report summarizing—

"(A) the extent of the human health and environmental impacts caused by municipal combined sewer overflows and sanitary sewer overflows, including the location of discharges causing such impacts, the volume of pollutants discharged, and the constituents discharged;

"(B) the resources spent by municipalities to address these impacts; and

"(C) an evaluation of the technologies used by municipalities to address these impacts.

"(2) TECHNOLOGY CLEARINGHOUSE.—After transmitting a report under paragraph (1), the Administrator shall maintain a clearinghouse of cost-effective and efficient technologies for addressing human health and environmental impacts due to municipal combined sewer overflows and sanitary sewer overflows."

SUBCHAPTER III—STANDARDS AND ENFORCEMENT

§ 1311. Effluent limitations

(a) Illegality of pollutant discharges except in compliance with law

Except as in compliance with this section and sections 1312, 1316, 1317, 1328, 1342, and 1344 of this title, the discharge of any pollutant by any person shall be unlawful.

(b) Timetable for achievement of objectives

In order to carry out the objective of this chapter there shall be achieved—

(1)(A) not later than July 1, 1977, effluent limitations for point sources, other than publicly owned treatment works, (i) which shall require the application of the best practicable control technology currently available as defined by the Administrator pursuant to section 1314(b) of this title, or (ii) in the case of a discharge into a publicly owned treatment works which meets the requirements of subparagraph (B) of this paragraph, which shall require compliance with any applicable pretreatment requirements and any requirements under section 1317 of this title; and

(B) for publicly owned treatment works in existence on July 1, 1977, or approved pursuant to section 1283 of this title prior to June 30, 1974 (for which construction must be completed within four years of approval), effluent limitations based upon secondary treatment as defined by the Administrator pursuant to section 1314(d)(1) of this title; or,

(C) not later than July 1, 1977, any more stringent limitation, including those necessary to meet water quality standards, treatment standards, or schedules of compliance, established pursuant to any State law or regulations (under authority preserved by section 1370 of this title) or any other Federal law or regulation, or required to implement any applicable water quality standard established pursuant to this chapter.

(2)(A) for pollutants identified in subparagraphs (C), (D), and (F) of this paragraph, effluent limitations for categories and classes of point sources, other than publicly owned treatment works, which (i) shall require application of the best available technology economically achievable for such category or class, which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants, as determined in accordance with regulations issued by the Administrator pursuant to section 1314(b)(2) of this title, which such effluent limitations shall require the elimination of discharges of all pollutants if the Administrator finds, on the basis of information available to him (including information developed pursuant to section 1325 of this title), that such elimination is technologically and economically achievable for a category or class of point sources as determined in accordance with regulations issued by the Administrator pursuant to section 1314(b)(2) of this title, or (ii) in the case of the introduction of a pollutant into a publicly owned treatment works which meets the requirements of subparagraph (B) of this paragraph, shall require compliance with any applicable pretreatment requirements and any other requirement under section 1317 of this title;

(B) Repealed. Pub. L. 97–117, §21(b), Dec. 29, 1981, 95 Stat. 1632.

(C) with respect to all toxic pollutants referred to in table 1 of Committee Print Numbered 95–30 of the Committee on Public Works and Transportation of the House of Representatives compliance with effluent limitations in accordance with subparagraph (A) of this paragraph as expeditiously as practicable but in no case later than three years after the date such limitations are promulgated under section 1314(b) of this title, and in no case later than March 31, 1989;

(D) for all toxic pollutants listed under paragraph (1) of subsection (a) of section 1317 of this title which are not referred to in subparagraph (C) of this paragraph compliance with effluent limitations in accordance with subparagraph (A) of this paragraph as expeditiously as practicable, but in no case later than three years after the date such limitations are promulgated under section 1314(b) of this title, and in no case later than March 31, 1989;

(E) as expeditiously as practicable but in no case later than three years after the date such limitations are promulgated under section 1314(h) of this title, and in no case later than March 31, 1989, compliance with effluent limitations for categories and classes of point sources, other than publicly owned treatment works, which in the case of pollutants identified pursuant to section 1314(a)(4) of this title shall require application of the best conventional pollutant control technology as determined in accordance with regulations issued by the Administrator pursuant to section 1314(b)(4) of this title; and

(F) for all pollutants (other than those subject to subparagraphs (C), (D), or (E) of this paragraph) compliance with effluent limitations in accordance with subparagraph (A) of this paragraph as expeditiously as practicable but in no case later than 3 years after the date

such limitations are established, and in no case later than March 31, 1989.

(3)(A) for effluent limitations under paragraph (1)(A)(i) of this subsection promulgated after January 1, 1982, and requiring a level of control substantially greater or based on fundamentally different control technology than under permits for an industrial category issued before such date, compliance as expeditiously as practicable but in no case later than three years after the date such limitations are promulgated under section 1314(b) of this title, and in no case later than March 31, 1989; and

(B) for any effluent limitation in accordance with paragraph (1)(A)(i), (2)(A)(i), or (2)(E) of this subsection established only on the basis of section 1342(a)(1) of this title in a permit issued after February 4, 1987, compliance as expeditiously as practicable but in no case later than three years after the date such limitations are established, and in no case later than March 31, 1989.

(c) Modification of timetable

The Administrator may modify the requirements of subsection (b)(2)(A) of this section with respect to any point source for which a permit application is filed after July 1, 1977, upon a showing by the owner or operator of such point source satisfactory to the Administrator that such modified requirements (1) will represent the maximum use of technology within the economic capability of the owner or operator; and (2) will result in reasonable further progress toward the elimination of the discharge of pollutants.

(d) Review and revision of effluent limitations

Any effluent limitation required by paragraph (2) of subsection (b) of this section shall be reviewed at least every five years and, if appropriate, revised pursuant to the procedure established under such paragraph.

(e) All point discharge source application of effluent limitations

Effluent limitations established pursuant to this section or section 1312 of this title shall be applied to all point sources of discharge of pollutants in accordance with the provisions of this chapter.

(f) Illegality of discharge of radiological, chemical, or biological warfare agents, high-level radioactive waste, or medical waste

Notwithstanding any other provisions of this chapter it shall be unlawful to discharge any radiological, chemical, or biological warfare agent, any high-level radioactive waste, or any medical waste, into the navigable waters.

(g) Modifications for certain nonconventional pollutants

(1) General authority

The Administrator, with the concurrence of the State, may modify the requirements of subsection (b)(2)(A) of this section with respect to the discharge from any point source of ammonia, chlorine, color, iron, and total phenols (4AAP) (when determined by the Administrator to be a pollutant covered by subsection (b)(2)(F) of this section) and any other pollutant which the Administrator lists under paragraph (4) of this subsection.

(2) Requirements for granting modifications

A modification under this subsection shall be granted only upon a showing by the owner or operator of a point source satisfactory to the Administrator that—

(A) such modified requirements will result at a minimum in compliance with the requirements of subsection (b)(1)(A) or (C) of this section, whichever is applicable;

(B) such modified requirements will not result in any additional requirements on any other point or nonpoint source; and

(C) such modification will not interfere with the attainment or maintenance of that water quality which shall assure protection of public water supplies, and the protection and propagation of a balanced population of shellfish, fish, and wildlife, and allow recreational activities, in and on the water and such modification will not result in the discharge of pollutants in quantities which may reasonably be anticipated to pose an unacceptable risk to human health or the environment because of bioaccumulation, persistency in the environment, acute toxicity, chronic toxicity (including carcinogenicity, mutagenicity or teratogenicity), or synergistic propensities.

(3) Limitation on authority to apply for subsection (c) modification

If an owner or operator of a point source applies for a modification under this subsection with respect to the discharge of any pollutant, such owner or operator shall be eligible to apply for modification under subsection (c) of this section with respect to such pollutant only during the same time period as he is eligible to apply for a modification under this subsection.

(4) Procedures for listing additional pollutants

(A) General authority

Upon petition of any person, the Administrator may add any pollutant to the list of pollutants for which modification under this section is authorized (except for pollutants identified pursuant to section 1314(a)(4) of this title, toxic pollutants subject to section 1317(a) of this title, and the thermal component of discharges) in accordance with the provisions of this paragraph.

(B) Requirements for listing

(i) Sufficient information

The person petitioning for listing of an additional pollutant under this subsection shall submit to the Administrator sufficient information to make the determinations required by this suhparagraph.

(ii) Toxic criteria determination

The Administrator shall determine whether or not the pollutant meets the criteria for listing as a toxic pollutant under section 1317(a) of this title.

(iii) Listing as toxic pollutant

If the Administrator determines that the pollutant meets the criteria for listing as

a toxic pollutant under section 1317(a) of this title, the Administrator shall list the pollutant as a toxic pollutant under section 1317(a) of this title.

(iv) Nonconventional criteria determination

If the Administrator determines that the pollutant does not meet the criteria for listing as a toxic pollutant under such section and determines that adequate test methods and sufficient data are available to make the determinations required by paragraph (2) of this subsection with respect to the pollutant, the Administrator shall add the pollutant to the list of pollutants specified in paragraph (1) of this subsection for which modifications are authorized under this subsection.

(C) Requirements for filing of petitions

A petition for listing of a pollutant under this paragraph—

(i) must be filed not later than 270 days after the date of promulgation of an applicable effluent guideline under section 1314 of this title;

(ii) may be filed before promulgation of such guideline; and

(iii) may be filed with an application for a modification under paragraph (1) with respect to the discharge of such pollutant.

(D) Deadline for approval of petition

A decision to add a pollutant to the list of pollutants for which modifications under this subsection are authorized must be made within 270 days after the date of promulgation of an applicable effluent guideline under section 1314 of this title.

(E) Burden of proof

The burden of proof for making the determinations under subparagraph (B) shall be on the petitioner.

(5) Removal of pollutants

The Administrator may remove any pollutant from the list of pollutants for which modifications are authorized under this subsection if the Administrator determines that adequate test methods and sufficient data are no longer available for determining whether or not modifications may be granted with respect to such pollutant under paragraph (2) of this subsection.

(h) Modification of secondary treatment requirements

The Administrator, with the concurrence of the State, may issue a permit under section 1342 of this title which modifies the requirements of subsection (b)(1)(B) of this section with respect to the discharge of any pollutant from a publicly owned treatment works into marine waters, if the applicant demonstrates to the satisfaction of the Administrator that—

(1) there is an applicable water quality standard specific to the pollutant for which the modification is requested, which has been identified under section 1314(a)(6) of this title;

(2) the discharge of pollutants in accordance with such modified requirements will not interfere, alone or in combination with pollutants from other sources, with the attainment or maintenance of that water quality which assures protection of public water supplies and the protection and propagation of a balanced, indigenous population of shellfish, fish, and wildlife, and allows recreational activities, in and on the water;

(3) the applicant has established a system for monitoring the impact of such discharge on a representative sample of aquatic biota, to the extent practicable, and the scope of such monitoring is limited to include only those scientific investigations which are necessary to study the effects of the proposed discharge;

(4) such modified requirements will not result in any additional requirements on any other point or nonpoint source;

(5) all applicable pretreatment requirements for sources introducing waste into such treatment works will be enforced;

(6) in the case of any treatment works serving a population of 50,000 or more, with respect to any toxic pollutant introduced into such works by an industrial discharger for which pollutant there is no applicable pretreatment requirement in effect, sources introducing waste into such works are in compliance with all applicable pretreatment requirements, the applicant will enforce such requirements, and the applicant has in effect a pretreatment program which, in combination with the treatment of discharges from such works, removes the same amount of such pollutant as would be removed if such works were to apply secondary treatment to discharges and if such works had no pretreatment program with respect to such pollutant;

(7) to the extent practicable, the applicant has established a schedule of activities designed to eliminate the entrance of toxic pollutants from nonindustrial sources into such treatment works;

(8) there will be no new or substantially increased discharges from the point source of the pollutant to which the modification applies above that volume of discharge specified in the permit;

(9) the applicant at the time such modification becomes effective will be discharging effluent which has received at least primary or equivalent treatment and which meets the criteria established under section 1314(a)(1) of this title after initial mixing in the waters surrounding or adjacent to the point at which such effluent is discharged.

For the purposes of this subsection the phrase "the discharge of any pollutant into marine waters" refers to a discharge into deep waters of the territorial sea or the waters of the contiguous zone, or into saline estuarine waters where there is strong tidal movement and other hydrological and geological characteristics which the Administrator determines necessary to allow compliance with paragraph (2) of this subsection, and section 1251(a)(2) of this title. For the purposes of paragraph (9), "primary or equivalent treatment" means treatment by screening, sedimentation, and skimming adequate to remove at least 30 percent of the biological oxygen demanding material and of the

suspended solids in the treatment works influent, and disinfection, where appropriate. A municipality which applies secondary treatment shall be eligible to receive a permit pursuant to this subsection which modifies the requirements of subsection (b)(1)(B) of this section with respect to the discharge of any pollutant from any treatment works owned by such municipality into marine waters. No permit issued under this subsection shall authorize the discharge of sewage sludge into marine waters. In order for a permit to be issued under this subsection for the discharge of a pollutant into marine waters, such marine waters must exhibit characteristics assuring that water providing dilution does not contain significant amounts of previously discharged effluent from such treatment works. No permit issued under this subsection shall authorize the discharge of any pollutant into saline estuarine waters which at the time of application do not support a balanced indigenous population of shellfish, fish and wildlife, or allow recreation in and on the waters or which exhibit ambient water quality below applicable water quality standards adopted for the protection of public water supplies, shellfish, fish and wildlife or recreational activities or such other standards necessary to assure support and protection of such uses. The prohibition contained in the preceding sentence shall apply without regard to the presence or absence of a causal relationship between such characteristics and the applicant's current or proposed discharge. Notwithstanding any other provisions of this subsection, no permit may be issued under this subsection for discharge of a pollutant into the New York Bight Apex consisting of the ocean waters of the Atlantic Ocean westward of 73 degrees 30 minutes west longitude and northward of 40 degrees 10 minutes north latitude.

(i) Municipal time extensions

(1) Where construction is required in order for a planned or existing publicly owned treatment works to achieve limitations under subsection (b)(1)(B) or (b)(1)(C) of this section, but (A) construction cannot be completed within the time required in such subsection, or (B) the United States has failed to make financial assistance under this chapter available in time to achieve such limitations by the time specified in such subsection, the owner or operator of such treatment works may request the Administrator (or if appropriate the State) to issue a permit pursuant to section 1342 of this title or to modify a permit issued pursuant to that section to extend such time for compliance. Any such request shall be filed with the Administrator (or if appropriate the State) within 180 days after February 4, 1987. The Administrator (or if appropriate the State) may grant such request and issue or modify such a permit, which shall contain a schedule of compliance for the publicly owned treatment works based on the earliest date by which such financial assistance will be available from the United States and construction can be completed, but in no event later than July 1, 1988, and shall contain such other terms and conditions, including those necessary to carry out subsections (b) through (g) of section 1281 of this title, section 1317 of this title, and such interim effluent limitations applicable to that treatment works as the Administrator determines are necessary to carry out the provisions of this chapter.

(2)(A) Where a point source (other than a publicly owned treatment works) will not achieve the requirements of subsections (b)(1)(A) and (b)(1)(C) of this section and—

(i) if a permit issued prior to July 1, 1977, to such point source is based upon a discharge into a publicly owned treatment works; or

(ii) if such point source (other than a publicly owned treatment works) had before July 1, 1977, a contract (enforceable against such point source) to discharge into a publicly owned treatment works; or

(iii) if either an application made before July 1, 1977, for a construction grant under this chapter for a publicly owned treatment works, or engineering or architectural plans or working drawings made before July 1, 1977, for a publicly owned treatment works, show that such point source was to discharge into such publicly owned treatment works,

and such publicly owned treatment works is presently unable to accept such discharge without construction, and in the case of a discharge to an existing publicly owned treatment works, such treatment works has an extension pursuant to paragraph (1) of this subsection, the owner or operator of such point source may request the Administrator (or if appropriate the State) to issue or modify such a permit pursuant to such section 1342 of this title to extend such time for compliance. Any such request shall be filed with the Administrator (or if appropriate the State) within 180 days after December 27, 1977, or the filing of a request by the appropriate publicly owned treatment works under paragraph (1) of this subsection, whichever is later. If the Administrator (or if appropriate the State) finds that the owner or operator of such point source has acted in good faith, he may grant such request and issue or modify such a permit, which shall contain a schedule of compliance for the point source to achieve the requirements of subsections (b)(1)(A) and (C) of this section and shall contain such other terms and conditions, including pretreatment and interim effluent limitations and water conservation requirements applicable to that point source, as the Administrator determines are necessary to carry out the provisions of this chapter.

(B) No time modification granted by the Administrator (or if appropriate the State) pursuant to paragraph (2)(A) of this subsection shall extend beyond the earliest date practicable for compliance or beyond the date of any extension granted to the appropriate publicly owned treatment works pursuant to paragraph (1) of this subsection, but in no event shall it extend beyond July 1, 1988; and no such time modification shall be granted unless (i) the publicly owned treatment works will be in operation and available to the point source before July 1, 1988, and will meet the requirements of subsections (b)(1)(B) and (C) of this section after receiving the discharge from that point source; and (ii) the point source and the publicly owned treatment works have entered into an enforceable contract requiring the point source to discharge

into the publicly owned treatment works, the owner or operator of such point source to pay the costs required under section 1284 of this title, and the publicly owned treatment works to accept the discharge from the point source; and (iii) the permit for such point source requires that point source to meet all requirements under section 1317(a) and (b) of this title during the period of such time modification.

(j) Modification procedures

(1) Any application filed under this section for a modification of the provisions of—

(A) subsection (b)(1)(B) of this section under subsection (h) of this section shall be filed not later that[1] the 365th day which begins after December 29, 1981, except that a publicly owned treatment works which prior to December 31, 1982, had a contractual arrangement to use a portion of the capacity of an ocean outfall operated by another publicly owned treatment works which has applied for or received modification under subsection (h) of this section, may apply for a modification of subsection (h) of this section in its own right not later than 30 days after February 4, 1987, and except as provided in paragraph (5);

(B) subsection (b)(2)(A) of this section as it applies to pollutants identified in subsection (b)(2)(F) of this section shall be filed not later than 270 days after the date of promulgation of an applicable effluent guideline under section 1314 of this title or not later than 270 days after December 27, 1977, whichever is later.

(2) Subject to paragraph (3) of this section, any application for a modification filed under subsection (g) of this section shall not operate to stay any requirement under this chapter, unless in the judgment of the Administrator such a stay or the modification sought will not result in the discharge of pollutants in quantities which may reasonably be anticipated to pose an unacceptable risk to human health or the environment because of bioaccumulation, persistency in the environment, acute toxicity, chronic toxicity (including carcinogenicity, mutagenicity, or teratogenicity), or synergistic propensities, and that there is a substantial likelihood that the applicant will succeed on the merits of such application. In the case of an application filed under subsection (g) of this section, the Administrator may condition any stay granted under this paragraph on requiring the filing of a bond or other appropriate security to assure timely compliance with the requirements from which a modification is sought.

(3) COMPLIANCE REQUIREMENTS UNDER SUBSECTION (g).—

(A) EFFECT OF FILING.—An application for a modification under subsection (g) of this section and a petition for listing of a pollutant as a pollutant for which modifications are authorized under such subsection shall not stay the requirement that the person seeking such modification or listing comply with effluent limitations under this chapter for all pollutants not the subject of such application or petition.

(B) EFFECT OF DISAPPROVAL.—Disapproval of an application for a modification under subsection (g) of this section shall not stay the requirement that the person seeking such modification comply with all applicable effluent limitations under this chapter.

(4) DEADLINE FOR SUBSECTION (g) DECISION.—An application for a modification with respect to a pollutant filed under subsection (g) of this section must be approved or disapproved not later than 365 days after the date of such filing; except that in any case in which a petition for listing such pollutant as a pollutant for which modifications are authorized under such subsection is approved, such application must be approved or disapproved not later than 365 days after the date of approval of such petition.

(5) EXTENSION OF APPLICATION DEADLINE.—

(A) IN GENERAL.—In the 180-day period beginning on October 31, 1994, the city of San Diego, California, may apply for a modification pursuant to subsection (h) of this section of the requirements of subsection (b)(1)(B) of this section with respect to biological oxygen demand and total suspended solids in the effluent discharged into marine waters.

(B) APPLICATION.—An application under this paragraph shall include a commitment by the applicant to implement a waste water reclamation program that, at a minimum, will—

(i) achieve a system capacity of 45,000,000 gallons of reclaimed waste water per day by January 1, 2010; and

(ii) result in a reduction in the quantity of suspended solids discharged by the applicant into the marine environment during the period of the modification.

(C) ADDITIONAL CONDITIONS.—The Administrator may not grant a modification pursuant to an application submitted under this paragraph unless the Administrator determines that such modification will result in removal of not less than 58 percent of the biological oxygen demand (on an annual average) and not less than 80 percent of total suspended solids (on a monthly average) in the discharge to which the application applies.

(D) PRELIMINARY DECISION DEADLINE.—The Administrator shall announce a preliminary decision on an application submitted under this paragraph not later than 1 year after the date the application is submitted.

(k) Innovative technology

In the case of any facility subject to a permit under section 1342 of this title which proposes to comply with the requirements of subsection (b)(2)(A) or (b)(2)(E) of this section by replacing existing production capacity with an innovative production process which will result in an effluent reduction significantly greater than that required by the limitation otherwise applicable to such facility and moves toward the national goal of eliminating the discharge of all pollutants, or with the installation of an innovative control technique that has a substantial likelihood for enabling the facility to comply with the applicable effluent limitation by achieving a significantly greater effluent reduction than that required by the applicable effluent limitation and moves toward the national goal of eliminating the discharge of all pollutants, or

[1] So in original. Probably should be "than".

by achieving the required reduction with an innovative system that has the potential for significantly lower costs than the systems which have been determined by the Administrator to be economically achievable, the Administrator (or the State with an approved program under section 1342 of this title, in consultation with the Administrator) may establish a date for compliance under subsection (b)(2)(A) or (b)(2)(E) of this section no later than two years after the date for compliance with such effluent limitation which would otherwise be applicable under such subsection, if it is also determined that such innovative system has the potential for industrywide application.

(*l*) Toxic pollutants

Other than as provided in subsection (n) of this section, the Administrator may not modify any requirement of this section as it applies to any specific pollutant which is on the toxic pollutant list under section 1317(a)(1) of this title.

(m) Modification of effluent limitation requirements for point sources

(1) The Administrator, with the concurrence of the State, may issue a permit under section 1342 of this title which modifies the requirements of subsections (b)(1)(A) and (b)(2)(E) of this section, and of section 1343 of this title, with respect to effluent limitations to the extent such limitations relate to biochemical oxygen demand and pH from discharges by an industrial discharger in such State into deep waters of the territorial seas, if the applicant demonstrates and the Administrator finds that—

(A) the facility for which modification is sought is covered at the time of the enactment of this subsection by National Pollutant Discharge Elimination System permit number CA0005894 or CA0005282;

(B) the energy and environmental costs of meeting such requirements of subsections (b)(1)(A) and (b)(2)(E) of this section and section 1343 of this title exceed by an unreasonable amount the benefits to be obtained, including the objectives of this chapter;

(C) the applicant has established a system for monitoring the impact of such discharges on a representative sample of aquatic biota;

(D) such modified requirements will not result in any additional requirements on any other point or nonpoint source;

(E) there will be no new or substantially increased discharges from the point source of the pollutant to which the modification applies above that volume of discharge specified in the permit;

(F) the discharge is into waters where there is strong tidal movement and other hydrological and geological characteristics which are necessary to allow compliance with this subsection and section 1251(a)(2) of this title;

(G) the applicant accepts as a condition to the permit a contractural[2] obligation to use funds in the amount required (but not less than $250,000 per year for ten years) for research and development of water pollution control technology, including but not limited to closed cycle technology;

(H) the facts and circumstances present a unique situation which, if relief is granted, will not establish a precedent or the relaxation of the requirements of this chapter applicable to similarly situated discharges; and

(I) no owner or operator of a facility comparable to that of the applicant situated in the United States has demonstrated that it would be put at a competitive disadvantage to the applicant (or the parent company or any subsidiary thereof) as a result of the issuance of a permit under this subsection.

(2) The effluent limitations established under a permit issued under paragraph (1) shall be sufficient to implement the applicable State water quality standards, to assure the protection of public water supplies and protection and propagation of a balanced, indigenous population of shellfish, fish, fauna, wildlife, and other aquatic organisms, and to allow recreational activities in and on the water. In setting such limitations, the Administrator shall take into account any seasonal variations and the need for an adequate margin of safety, considering the lack of essential knowledge concerning the relationship between effluent limitations and water quality and the lack of essential knowledge of the effects of discharges on beneficial uses of the receiving waters.

(3) A permit under this subsection may be issued for a period not to exceed five years, and such a permit may be renewed for one additional period not to exceed five years upon a demonstration by the applicant and a finding by the Administrator at the time of application for any such renewal that the provisions of this subsection are met.

(4) The Administrator may terminate a permit issued under this subsection if the Administrator determines that there has been a decline in ambient water quality of the receiving waters during the period of the permit even if a direct cause and effect relationship cannot be shown: *Provided*, That if the effluent from a source with a permit issued under this subsection is contributing to a decline in ambient water quality of the receiving waters, the Administrator shall terminate such permit.

(n) Fundamentally different factors

(1) General rule

The Administrator, with the concurrence of the State, may establish an alternative requirement under subsection (b)(2) of this section or section 1317(b) of this title for a facility that modifies the requirements of national effluent limitation guidelines or categorical pretreatment standards that would otherwise be applicable to such facility, if the owner or operator of such facility demonstrates to the satisfaction of the Administrator that—

(A) the facility is fundamentally different with respect to the factors (other than cost) specified in section 1314(b) or 1314(g) of this title and considered by the Administrator in establishing such national effluent limitation guidelines or categorical pretreatment standards;

(B) the application—

[2] So in original. Probably should be "contractual".

(i) is based solely on information and supporting data submitted to the Administrator during the rulemaking for establishment of the applicable national effluent limitation guidelines or categorical pretreatment standard specifically raising the factors that are fundamentally different for such facility; or

(ii) is based on information and supporting data referred to in clause (i) and information and supporting data the applicant did not have a reasonable opportunity to submit during such rulemaking;

(C) the alternative requirement is no less stringent than justified by the fundamental difference; and

(D) the alternative requirement will not result in a non-water quality environmental impact which is markedly more adverse than the impact considered by the Administrator in establishing such national effluent limitation guideline or categorical pretreatment standard.

(2) Time limit for applications

An application for an alternative requirement which modifies the requirements of an effluent limitation or pretreatment standard under this subsection must be submitted to the Administrator within 180 days after the date on which such limitation or standard is established or revised, as the case may be.

(3) Time limit for decision

The Administrator shall approve or deny by final agency action an application submitted under this subsection within 180 days after the date such application is filed with the Administrator.

(4) Submission of information

The Administrator may allow an applicant under this subsection to submit information and supporting data until the earlier of the date the application is approved or denied or the last day that the Administrator has to approve or deny such application.

(5) Treatment of pending applications

For the purposes of this subsection, an application for an alternative requirement based on fundamentally different factors which is pending on February 4, 1987, shall be treated as having been submitted to the Administrator on the 180th day following February 4, 1987. The applicant may amend the application to take into account the provisions of this subsection.

(6) Effect of submission of application

An application for an alternative requirement under this subsection shall not stay the applicant's obligation to comply with the effluent limitation guideline or categorical pretreatment standard which is the subject of the application.

(7) Effect of denial

If an application for an alternative requirement which modifies the requirements of an effluent limitation or pretreatment standard under this subsection is denied by the Administrator, the applicant must comply with such limitation or standard as established or revised, as the case may be.

(8) Reports

By January 1, 1997, and January 1 of every odd-numbered year thereafter, the Administrator shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the status of applications for alternative requirements which modify the requirements of effluent limitations under section 1311 or 1314 of this title or any national categorical pretreatment standard under section 1317(b) of this title filed before, on, or after February 4, 1987.

***(o)* Application fees**

The Administrator shall prescribe and collect from each applicant fees reflecting the reasonable administrative costs incurred in reviewing and processing applications for modifications submitted to the Administrator pursuant to subsections (c), (g), (i), (k), (m), and (n) of this section, section 1314(d)(4) of this title, and section 1326(a) of this title. All amounts collected by the Administrator under this subsection shall be deposited into a special fund of the Treasury entitled "Water Permits and Related Services" which shall thereafter be available for appropriation to carry out activities of the Environmental Protection Agency for which such fees were collected.

(p) Modified permit for coal remining operations

(1) In general

Subject to paragraphs (2) through (4) of this subsection, the Administrator, or the State in any case which the State has an approved permit program under section 1342(b) of this title, may issue a permit under section 1342 of this title which modifies the requirements of subsection (b)(2)(A) of this section with respect to the pH level of any pre-existing discharge, and with respect to pre-existing discharges of iron and manganese from the remined area of any coal remining operation or with respect to the pH level or level of iron or manganese in any pre-existing discharge affected by the remining operation. Such modified requirements shall apply the best available technology economically achievable on a case-by-case basis, using best professional judgment, to set specific numerical effluent limitations in each permit.

(2) Limitations

The Administrator or the State may only issue a permit pursuant to paragraph (1) if the applicant demonstrates to the satisfaction of the Administrator or the State, as the case may be, that the coal remining operation will result in the potential for improved water quality from the remining operation but in no event shall such a permit allow the pH level of any discharge, and in no event shall such a permit allow the discharges of iron and manganese, to exceed the levels being discharged from the remined area before the coal remining operation begins. No discharge from, or affected by, the remining operation shall exceed

State water quality standards established under section 1313 of this title.

(3) Definitions

For purposes of this subsection—

(A) Coal remining operation

The term "coal remining operation" means a coal mining operation which begins after February 4, 1987 at a site on which coal mining was conducted before August 3, 1977.

(B) Remined area

The term "remined area" means only that area of any coal remining operation on which coal mining was conducted before August 3, 1977.

(C) Pre-existing discharge

The term "pre-existing discharge" means any discharge at the time of permit application under this subsection.

(4) Applicability of strip mining laws

Nothing in this subsection shall affect the application of the Surface Mining Control and Reclamation Act of 1977 [30 U.S.C. 1201 et seq.] to any coal remining operation, including the application of such Act to suspended solids.

(June 30, 1948, ch. 758, title III, § 301, as added Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 844; amended Pub. L. 95-217, §§ 42-47, 53(c), Dec. 27, 1977, 91 Stat. 1582-1586, 1590; Pub. L. 97-117, §§ 21, 22(a)-(d), Dec. 29, 1981, 95 Stat. 1631, 1632; Pub. L. 97-440, Jan. 8, 1983, 96 Stat. 2289; Pub. L. 100-4, title III, §§ 301(a)-(e), 302(a)-(d), 303(a), (b)(1), (c)-(f), 304(a), 305, 306(a), (b), 307, Feb. 4, 1987, 101 Stat. 29-37; Pub. L. 100-688, title III, § 3202(b), Nov. 18, 1988, 102 Stat. 4154; Pub. L. 103-431, § 2, Oct. 31, 1994, 108 Stat. 4396; Pub. L. 104-66, title II, § 2021(b), Dec. 21, 1995, 109 Stat. 727.)

REFERENCES IN TEXT

The Surface Mining Control and Reclamation Act of 1977, referred to in subsec. (p)(4), is Pub. L. 95-87, Aug. 3, 1977, 91 Stat. 445, as amended, which is classified generally to chapter 25 (§ 1201 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 1201 of Title 30 and Tables.

AMENDMENTS

1995—Subsec. (n)(8). Pub. L. 104-66 substituted "By January 1, 1997, and January 1 of every odd-numbered year thereafter, the Administrator shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure" for "Every 6 months after February 4, 1987, the Administrator shall submit to the Committee on Environment and Puhlic Works of the Senate and the Committee on Public Works and Transportation".

1994—Subsec. (j)(1)(A). Pub. L. 103-431, § 2(1), inserted before semicolon at end ", and except as provided in paragraph (5)".

Subsec. (j)(5). Pub. L. 103-431, § 2(2), added par. (5).

1988—Subsec. (f). Pub. L. 100-688 substituted ", any high-level radioactive waste, or any medical waste," for "or high-level radioactive waste".

1987—Subsec. (b)(2)(C). Pub. L. 100-4, § 301(a), struck out "not later than July 1, 1984," before "with respect" and inserted "as expeditiously as practicable but in no case later than three years after the date such limitations are promulgated under section 1314(b) of this title, and in no case later than March 31, 1989" after "of this paragraph".

Subsec. (b)(2)(D). Pub. L. 100-4, § 301(b), substituted "as expeditiously as practicable, but in no case later than three years after the date such limitations are promulgated under section 1314(b) of this title, and in no case later than March 31, 1989" for "not later than three years after the date such limitations are established".

Subsec. (b)(2)(E). Pub. L. 100-4, § 301(c), substituted "as expeditiously as practicable but in no case later than three years after the date such limitations are promulgated under section 1314(b) of this title, and in no case later than March 31, 1989, compliance with" for "not later than July 1, 1984,".

Subsec. (b)(2)(F). Pub. L. 100-4, § 301(d), substituted "as expeditiously as practicable but in no case" for "not" and "and in no case later than March 31, 1989" for "or not later than July 1, 1984, whichever is later, but in no case later than July 1, 1987".

Subsec. (b)(3). Pub. L. 100-4, § 301(e), added par. (3).

Subsec. (g)(1). Pub. L. 100-4, § 302(a), substituted par. (1) for introductory provisions of former par. (1) which read as follows: "The Administrator, with the concurrence of the State, shall modify the requirements of subsection (b)(2)(A) of this section with respect to the discharge of any pollutant (other than pollutants identified pursuant to section 1314(a)(4) of this title, toxic pollutants subject to section 1317(a) of this title, and the thermal component of discharges) from any point source upon a showing by the owner or operator of such point source satisfactory to the Administrator that—". Subpars (A) to (C) of former par. (1) were redesignated as subpars. (A) to (C) of par. (2).

Subsec. (g)(2). Pub. L. 100-4, § 302(a), (d)(2), inserted introductory provisions of par. (2), and by so doing, redesignated subpars. (A) to (C) of former par. (1) as subpars. (A) to (C) of par. (2), realigned such subpars. with subpar. (A) of par. (4), and redesignated former par. (2) as (3).

Subsec. (g)(3). Pub. L. 100-4, § 302(a), (d)(1), redesignated former par. (2) as (3), inserted heading, and aligned par. (3) with par. (4).

Subsec. (g)(4), (5). Pub. L. 100-4, § 302(b), added pars. (4) and (5).

Subsec. (h). Pub. L. 100-4, § 303(d)(2), (e), in closing provisions, inserted provision defining "primary or equivalent treatment" for purposes of par. (9) and provisions placing limitations on issuance of permits for discharge of pollutant into marine waters and saline estuarine waters and prohibiting issuance of permit for discharge of pollutant into New York Bight Apex.

Subsec. (h)(2). Pub. L. 100-4, § 303(a), substituted "the discharge of pollutants in accordance with such modified requirements will not interfere, alone or in combination with pollutants from other sources," for "such modified requirements will not interfere".

Subsec. (h)(3). Pub. L. 100-4, § 303(b)(1), inserted ", and the scope of such monitoring is limited to include only those scientific investigations which are necessary to study the effects of the proposed discharge" before semicolon at end.

Subsec. (h)(6) to (9). Pub. L. 100-4, § 303(c), (d)(1), added par. (6), redesignated former pars. (6) and (7) as (7) and (8), respectively, substituted semicolon for period at end of par. (8), and added par. (9).

Subsec. (i)(1). Pub. L. 100-4, § 304(a), substituted "February 4, 1987" for "December 27, 1977".

Subsec. (j)(1)(A). Pub. L. 100-4, § 303(f), inserted before semicolon at end ", except that a publicly owned treatment works which prior to December 31, 1982, had a contractual arrangement to use a portion of the capacity of an ocean outfall operated by another publicly owned treatment works which has applied for or received modification under subsection (h) of this section, may apply for a modification of subsection (h) of this section in its own right not later than 30 days after February 4, 1987".

Subsec. (j)(2). Pub. L. 100-4, § 302(c)(1), substituted "Subject to paragraph (3) of this section, any" for "Any".

Subsec. (j)(3), (4). Pub. L. 100-4, § 302(c)(2), added pars. (3) and (4).

Subsec. (k). Pub. L. 100-4, § 305, substituted "two years after the date for compliance with such effluent

of limitations, including any economic or social dislocation in the affected community or communities, to the social and economic benefits to be obtained (including the attainment of the objective of this chapter) and to determine whether or not such effluent limitations can be implemented with available technology or other alternative control strategies.

"(2) If a person affected by such limitation demonstrates at such hearing that (whether or not such technology or other alternative control strategies are available) there is no reasonable relationship between the economic and social costs and the benefits to be obtained (including attainment of the objective of this chapter), such limitation shall not become effective and the Administrator shall adjust such limitation as it applies to such person."

§ 1313. Water quality standards and implementation plans

(a) Existing water quality standards

(1) In order to carry out the purpose of this chapter, any water quality standard applicable to interstate waters which was adopted by any State and submitted to, and approved by, or is awaiting approval by, the Administrator pursuant to this Act as in effect immediately prior to October 18, 1972, shall remain in effect unless the Administrator determined that such standard is not consistent with the applicable requirements of this Act as in effect immediately prior to October 18, 1972. If the Administrator makes such a determination he shall, within three months after October 18, 1972, notify the State and specify the changes needed to meet such requirements. If such changes are not adopted by the State within ninety days after the date of such notification, the Administrator shall promulgate such changes in accordance with subsection (b) of this section.

(2) Any State which, before October 18, 1972, has adopted, pursuant to its own law, water quality standards applicable to intrastate waters shall submit such standards to the Administrator within thirty days after October 18, 1972. Each such standard shall remain in effect, in the same manner and to the same extent as any other water quality standard established under this chapter unless the Administrator determines that such standard is inconsistent with the applicable requirements of this Act as in effect immediately prior to October 18, 1972. If the Administrator makes such a determination he shall not later than the one hundred and twentieth day after the date of submission of such standards, notify the State and specify the changes needed to meet such requirements. If such changes are not adopted by the State within ninety days after such notification, the Administrator shall promulgate such changes in accordance with subsection (b) of this section.

(3)(A) Any State which prior to October 18, 1972, has not adopted pursuant to its own laws water quality standards applicable to intrastate waters shall, not later than one hundred and eighty days after October 18, 1972, adopt and submit such standards to the Administrator.

(B) If the Administrator determines that any such standards are consistent with the applicable requirements of this Act as in effect immediately prior to October 18, 1972, he shall approve such standards.

(C) If the Administrator determines that any such standards are not consistent with the applicable requirements of this Act as in effect immediately prior to October 18, 1972, he shall, not later than the ninetieth day after the date of submission of such standards, notify the State and specify the changes to meet such requirements. If such changes are not adopted by the State within ninety days after the date of notification, the Administrator shall promulgate such standards pursuant to subsection (b) of this section.

(b) Proposed regulations

(1) The Administrator shall promptly prepare and publish proposed regulations setting forth water quality standards for a State in accordance with the applicable requirements of this Act as in effect immediately prior to October 18, 1972, if—

(A) the State fails to submit water quality standards within the times prescribed in subsection (a) of this section.

(B) a water quality standard submitted by such State under subsection (a) of this section is determined by the Administrator not to be consistent with the applicable requirements of subsection (a) of this section.

(2) The Administrator shall promulgate any water quality standard published in a proposed regulation not later than one hundred and ninety days after the date he publishes any such proposed standard, unless prior to such promulgation, such State has adopted a water quality standard which the Administrator determines to be in accordance with subsection (a) of this section.

(c) Review; revised standards; publication

(1) The Governor of a State or the State water pollution control agency of such State shall from time to time (but at least once each three year period beginning with October 18, 1972) hold public hearings for the purpose of reviewing applicable water quality standards and, as appropriate, modifying and adopting standards. Results of such review shall be made available to the Administrator.

(2)(A) Whenever the State revises or adopts a new standard, such revised or new standard shall be submitted to the Administrator. Such revised or new water quality standard shall consist of the designated uses of the navigable waters involved and the water quality criteria for such waters based upon such uses. Such standards shall be such as to protect the public health or welfare, enhance the quality of water and serve the purposes of this chapter. Such standards shall be established taking into consideration their use and value for public water supplies, propagation of fish and wildlife, recreational purposes, and agricultural, industrial, and other purposes, and also taking into consideration their use and value for navigation.

(B) Whenever a State reviews water quality standards pursuant to paragraph (1) of this subsection, or revises or adopts new standards pursuant to this paragraph, such State shall adopt criteria for all toxic pollutants listed pursuant to section 1317(a)(1) of this title for which criteria have been published under section 1314(a) of this title, the discharge or presence of which in the affected waters could reasonably be ex-

pected to interfere with those designated uses adopted by the State, as necessary to support such designated uses. Such criteria shall be specific numerical criteria for such toxic pollutants. Where such numerical criteria are not available, whenever a State reviews water quality standards pursuant to paragraph (1), or revises or adopts new standards pursuant to this paragraph, such State shall adopt criteria based on biological monitoring or assessment methods consistent with information published pursuant to section 1314(a)(8) of this title. Nothing in this section shall be construed to limit or delay the use of effluent limitations or other permit conditions based on or involving biological monitoring or assessment methods or previously adopted numerical criteria.

(3) If the Administrator, within sixty days after the date of submission of the revised or new standard, determines that such standard meets the requirements of this chapter, such standard shall thereafter be the water quality standard for the applicable waters of that State. If the Administrator determines that any such revised or new standard is not consistent with the applicable requirements of this chapter, he shall not later than the ninetieth day after the date of submission of such standard notify the State and specify the changes to meet such requirements. If such changes are not adopted by the State within ninety days after the date of notification, the Administrator shall promulgate such standard pursuant to paragraph (4) of this subsection.

(4) The Administrator shall promptly prepare and publish proposed regulations setting forth a revised or new water quality standard for the navigable waters involved—

(A) if a revised or new water quality standard submitted by such State under paragraph (3) of this subsection for such waters is determined by the Administrator not to he consistent with the applicable requirements of this chapter, or

(B) in any case where the Administrator determines that a revised or new standard is necessary to meet the requirements of this chapter.

The Administrator shall promulgate any revised or new standard under this paragraph not later than ninety days after he publishes such proposed standards, unless prior to such promulgation, such State has adopted a revised or new water quality standard which the Administrator determines to be in accordance with this chapter.

(d) Identification of areas with insufficient controls; maximum daily load; certain effluent limitations revision

(1)(A) Each State shall identify those waters within its boundaries for which the effluent limitations required by section 1311(b)(1)(A) and section 1311(b)(1)(B) of this title are not stringent enough to implement any water quality standard applicable to such waters. The State shall establish a priority ranking for such waters, taking into account the severity of the pollution and the uses to be made of such waters.

(B) Each State shall identify those waters or parts thereof within its boundaries for which controls on thermal discharges under section 1311 of this title are not stringent enough to assure protection and propagation of a balanced indigenous population of shellfish, fish, and wildlife.

(C) Each State shall establish for the waters identified in paragraph (1)(A) of this subsection, and in accordance with the priority ranking, the total maximum daily load, for those pollutants which the Administrator identifies under section 1314(a)(2) of this title as suitable for such calculation. Such load shall be established at a level necessary to implement the applicable water quality standards with seasonal variations and a margin of safety which takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality.

(D) Each State shall estimate for the waters identified in paragraph (1)(B) of this subsection the total maximum daily thermal load required to assure protection and propagation of a balanced, indigenous population of shellfish, fish, and wildlife. Such estimates shall take into account the normal water temperatures, flow rates, seasonal variations, existing sources of heat input, and the dissipative capacity of the identified waters or parts thereof. Such estimates shall include a calculation of the maximum heat input that can be made into each such part and shall include a margin of safety which takes into account any lack of knowledge concerning the development of thermal water quality criteria for such protection and propagation in the identified waters or parts thereof.

(2) Each State shall submit to the Administrator from time to time, with the first such submission not later than one hundred and eighty days after the date of publication of the first identification of pollutants under section 1314(a)(2)(D) of this title, for his approval the waters identified and the loads established under paragraphs (1)(A), (1)(B), (1)(C), and (1)(D) of this subsection. The Administrator shall either approve or disapprove such identification and load not later than thirty days after the date of suhmission. If the Administrator approves such identification and load, such State shall incorporate them into its current plan under subsection (e) of this section. If the Administrator disapproves such identification and load, he shall not later than thirty days after the date of such disapproval identify such waters in such State and establish such loads for such waters as he determines necessary to implement the water quality standards applicable to such waters and upon such identification and establishment the State shall incorporate them into its current plan under subsection (e) of this section.

(3) For the specific purpose of developing information, each State shall identify all waters within its boundaries which it has not identified under paragraph (1)(A) and (1)(B) of this subsection and estimate for such waters the total maximum daily load with seasonal variations and margins of safety, for those pollutants which the Administrator identifies under section 1314(a)(2) of this title as suitable for such calculation and for thermal discharges, at a level that would assure protection and propaga-

tion of a balanced indigenous population of fish, shellfish, and wildlife.

(4) LIMITATIONS ON REVISION OF CERTAIN EFFLUENT LIMITATIONS.—

(A) STANDARD NOT ATTAINED.—For waters identified under paragraph (1)(A) where the applicable water quality standard has not yet been attained, any effluent limitation based on a total maximum daily load or other waste load allocation established under this section may be revised only if (i) the cumulative effect of all such revised effluent limitations based on such total maximum daily load or waste load allocation will assure the attainment of such water quality standard, or (ii) the designated use which is not being attained is removed in accordance with regulations established under this section.

(B) STANDARD ATTAINED.—For waters identified under paragraph (1)(A) where the quality of such waters equals or exceeds levels necessary to protect the designated use for such waters or otherwise required by applicable water quality standards, any effluent limitation based on a total maximum daily load or other waste load allocation established under this section, or any water quality standard established under this section, or any other permitting standard may be revised only if such revision is subject to and consistent with the antidegradation policy established under this section.

(e) Continuing planning process

(1) Each State shall have a continuing planning process approved under paragraph (2) of this subsection which is consistent with this chapter.

(2) Each State shall submit not later than 120 days after October 18, 1972, to the Administrator for his approval a proposed continuing planning process which is consistent with this chapter. Not later than thirty days after the date of submission of such a process the Administrator shall either approve or disapprove such process. The Administrator shall from time to time review each State's approved planning process for the purpose of insuring that such planning process is at all times consistent with this chapter. The Administrator shall not approve any State permit program under subchapter IV of this chapter for any State which does not have an approved continuing planning process under this section.

(3) The Administrator shall approve any continuing planning process submitted to him under this section which will result in plans for all navigable waters within such State, which include, but are not limited to, the following:

(A) effluent limitations and schedules of compliance at least as stringent as those required by section 1311(b)(1), section 1311(b)(2), section 1316, and section 1317 of this title, and at least as stringent as any requirements contained in any applicable water quality standard in effect under authority of this section;

(B) the incorporation of all elements of any applicable area-wide waste management plans under section 1288 of this title, and applicable basin plans under section 1289 of this title;

(C) total maximum daily load for pollutants in accordance with subsection (d) of this section;

(D) procedures for revision;

(E) adequate authority for intergovernmental cooperation;

(F) adequate implementation, including schedules of compliance, for revised or new water quality standards, under subsection (c) of this section;

(G) controls over the disposition of all residual waste from any water treatment processing;

(H) an inventory and ranking, in order of priority, of needs for construction of waste treatment works required to meet the applicable requirements of sections 1311 and 1312 of this title.

(f) Earlier compliance

Nothing in this section shall be construed to affect any effluent limitation, or schedule of compliance required by any State to be implemented prior to the dates set forth in sections 1311(b)(1) and 1311(b)(2) of this title nor to preclude any State from requiring compliance with any effluent limitation or schedule of compliance at dates earlier than such dates.

(g) Heat standards

Water quality standards relating to heat shall be consistent with the requirements of section 1326 of this title.

(h) Thermal water quality standards

For the purposes of this chapter the term "water quality standards" includes thermal water quality standards.

(i) Coastal recreation water quality criteria

(1) Adoption by States

(A) Initial criteria and standards

Not later than 42 months after October 10, 2000, each State having coastal recreation waters shall adopt and submit to the Administrator water quality criteria and standards for the coastal recreation waters of the State for those pathogens and pathogen indicators for which the Administrator has published criteria under section 1314(a) of this title.

(B) New or revised criteria and standards

Not later than 36 months after the date of publication by the Administrator of new or revised water quality criteria under section 1314(a)(9) of this title, each State having coastal recreation waters shall adopt and submit to the Administrator new or revised water quality standards for the coastal recreation waters of the State for all pathogens and pathogen indicators to which the new or revised water quality criteria are applicable.

(2) Failure of States to adopt

(A) In general

If a State fails to adopt water quality criteria and standards in accordance with paragraph (1)(A) that are as protective of human health as the criteria for pathogens and pathogen indicators for coastal recreation waters published by the Administrator, the Administrator shall promptly propose regulations for the State setting forth revised or

new water quality standards for pathogens and pathogen indicators described in paragraph (1)(A) for coastal recreation waters of the State.

(B) Exception

If the Administrator proposes regulations for a State described in subparagraph (A) under subsection (c)(4)(B) of this section, the Administrator shall publish any revised or new standard under this subsection not later than 42 months after October 10, 2000.

(3) Applicability

Except as expressly provided by this subsection, the requirements and procedures of subsection (c) of this section apply to this subsection, including the requirement in subsection (c)(2)(A) of this section that the criteria protect public health and welfare.

(June 30, 1948, ch. 758, title III, § 303, as added Pub. L. 92–500, § 2, Oct. 18, 1972, 86 Stat. 846; amended Pub. L. 100–4, title III, § 308(d), title IV, § 404(b), Feb. 4, 1987, 101 Stat. 39, 68; Pub. L. 106–284, § 2, Oct. 10, 2000, 114 Stat. 870.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a)(1), (2), (3)(B), (C) and (b)(1), means act June 30, 1948, ch. 758, 62 Stat. 1155, prior to the supersedure and reenactment of act June 30, 1948 by act Oct. 18, 1972, Pub. L. 92–500, 86 Stat. 816. Act June 30, 1948, ch. 758, as added by act Oct. 18, 1972, Pub. L. 92–500, 86 Stat. 816, enacted this chapter.

AMENDMENTS

2000—Subsec. (i). Pub. L. 106–284 added subsec. (i).

1987—Subsec. (c)(2). Pub. L. 100–4, § 308(d), designated existing provision as subpar. (A) and added subpar. (B).

Subsec. (d)(4). Pub. L. 100–4, § 404(b), added par. (4).

§ 1313a. Revised water quality standards

The review, revision, and adoption or promulgation of revised or new water quality standards pursuant to section 303(c) of the Federal Water Pollution Control Act [33 U.S.C. 1313(c)] shall be completed by the date three years after December 29, 1981. No grant shall be made under title II of the Federal Water Pollution Control Act [33 U.S.C. 1281 et seq.] after such date until water quality standards are reviewed and revised pursuant to section 303(c), except where the State has in good faith submitted such revised water quality standards and the Administrator has not acted to approve or disapprove such submission within one hundred and twenty days of receipt.

(Pub. L. 97–117, § 24, Dec. 29, 1981, 95 Stat. 1632.)

REFERENCES IN TEXT

The Federal Water Pollution Control Act, referred to in text, is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, § 2, Oct. 18, 1972, 86 Stat. 816. Title II of the Act is classified generally to subchapter II (§ 1281 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of this title and Tables.

CODIFICATION

Section was enacted as part of the Municipal Wastewater Treatment Construction Grant Amendments of 1981, and not as part of the Federal Water Pollution Control Act which comprises this chapter.

§ 1314. Information and guidelines

(a) Criteria development and publication

(1) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall develop and publish, within one year after October 18, 1972 (and from time to time thereafter revise) criteria for water quality accurately reflecting the latest scientific knowledge (A) on the kind and extent of all identifiable effects on health and welfare including, but not limited to, plankton, fish, shellfish, wildlife, plant life, shorelines, beaches, esthetics, and recreation which may be expected from the presence of pollutants in any body of water, including ground water; (B) on the concentration and dispersal of pollutants, or their byproducts, through biological, physical, and chemical processes; and (C) on the effects of pollutants on biological community diversity, productivity, and stability, including information on the factors affecting rates of eutrophication and rates of organic and inorganic sedimentation for varying types of receiving waters.

(2) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall develop and publish, within one year after October 18, 1972 (and from time to time thereafter revise) information (A) on the factors necessary to restore and maintain the chemical, physical, and biological integrity of all navigable waters, ground waters, waters of the contiguous zone, and the oceans; (B) on the factors necessary for the protection and propagation of shellfish, fish, and wildlife for classes and categories of receiving waters and to allow recreational activities in and on the water; and (C) on the measurement and classification of water quality; and (D) for the purpose of section 1313 of this title, on and the identification of pollutants suitable for maximum daily load measurement correlated with the achievement of water quality objectives.

(3) Such criteria and information and revisions thereof shall be issued to the States and shall be published in the Federal Register and otherwise made available to the puhlic.

(4) The Administrator shall, within 90 days after December 27, 1977, and from time to time thereafter, publish and revise as appropriate information identifying conventional pollutants, including but not limited to, pollutants classified as biological oxygen demanding, suspended solids, fecal coliform, and pH. The thermal component of any discharge shall not be identified as a conventional pollutant under this paragraph.

(5)(A) The Administrator, to the extent practicable before consideration of any request under section 1311(g) of this title and within six months after December 27, 1977, shall develop and publish information on the factors necessary for the protection of public water supplies, and the protection and propagation of a halanced population of shellfish, fish and wildlife, and to allow recreational activities, in and on the water.

(B) The Administrator, to the extent practicable before consideration of any application under section 1311(h) of this title and within six months after December 27, 1977, shall develop

where actual construction of a facility has been lawfully commenced prior to April 3, 1970, no certification shall be required under this subsection for a license or permit issued after April 3, 1970, to operate such facility, except that any such license or permit issued without certification shall terminate April 3, 1973, unless prior to such termination date the person having such license or permit submits to the Federal agency which issued such license or permit a certification and otherwise meets the requirements of this section.

(b) Compliance with other provisions of law setting applicable water quality requirements

Nothing in this section shall be construed to limit the authority of any department or agency pursuant to any other provision of law to require compliance with any applicable water quality requirements. The Administrator shall, upon the request of any Federal department or agency, or State or interstate agency, or applicant, provide, for the purpose of this section, any relevant information on applicable effluent limitations, or other limitations, standards, regulations, or requirements, or water quality criteria, and shall, when requested by any such department or agency or State or interstate agency, or applicant, comment on any methods to comply with such limitations, standards, regulations, requirements, or criteria.

(c) Authority of Secretary of the Army to permit use of spoil disposal areas by Federal licensees or permittees

In order to implement the provisions of this section, the Secretary of the Army, acting through the Chief of Engineers, is authorized, if he deems it to be in the public interest, to permit the use of spoil disposal areas under his jurisdiction by Federal licensees or permittees, and to make an appropriate charge for such use. Moneys received from such licensees or permittees shall be deposited in the Treasury as miscellaneous receipts.

(d) Limitations and monitoring requirements of certification

Any certification provided under this section shall set forth any effluent limitations and other limitations, and monitoring requirements necessary to assure that any applicant for a Federal license or permit will comply with any applicable effluent limitations and other limitations, under section 1311 or 1312 of this title, standard of performance under section 1316 of this title, or prohibition, effluent standard, or pretreatment standard under section 1317 of this title, and with any other appropriate requirement of State law set forth in such certification, and shall become a condition on any Federal license or permit subject to the provisions of this section.

(June 30, 1948, ch. 758, title IV, § 401, as added Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 877; amended Pub. L. 95-217, §§ 61(b), 64, Dec. 27, 1977, 91 Stat. 1598, 1599.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-217 inserted reference to section 1313 of this title in pars. (1), (3), (4), and (6), struck out par. (6) which provided that no Federal agency be deemed an applicant for purposes of this subsection, and redesignated par. (7) as (6).

§ 1342. National pollutant discharge elimination system

(a) Permits for discharge of pollutants

(1) Except as provided in sections 1328 and 1344 of this title, the Administrator may, after opportunity for public hearing issue a permit for the discharge of any pollutant, or combination of pollutants, notwithstanding section 1311(a) of this title, upon condition that such discharge will meet either (A) all applicable requirements under sections 1311, 1312, 1316, 1317, 1318, and 1343 of this title, or (B) prior to the taking of necessary implementing actions relating to all such requirements, such conditions as the Administrator determines are necessary to carry out the provisions of this chapter.

(2) The Administrator shall prescribe conditions for such permits to assure compliance with the requirements of paragraph (1) of this subsection, including conditions on data and information collection, reporting, and such other requirements as he deems appropriate.

(3) The permit program of the Administrator under paragraph (1) of this subsection, and permits issued thereunder, shall be subject to the same terms, conditions, and requirements as apply to a State permit program and permits issued thereunder under subsection (b) of this section.

(4) All permits for discharges into the navigable waters issued pursuant to section 407 of this title shall be deemed to be permits issued under this subchapter, and permits issued under this subchapter shall be deemed to be permits issued under section 407 of this title, and shall continue in force and effect for their term unless revoked, modified, or suspended in accordance with the provisions of this chapter.

(5) No permit for a discharge into the navigable waters shall be issued under section 407 of this title after October 18, 1972. Each application for a permit under section 407 of this title, pending on October 18, 1972, shall be deemed to be an application for a permit under this section. The Administrator shall authorize a State, which he determines has the capability of administering a permit program which will carry out the objectives of this chapter to issue permits for discharges into the navigable waters within the jurisdiction of such State. The Administrator may exercise the authority granted him by the preceding sentence only during the period which begins on October 18, 1972, and ends either on the ninetieth day after the date of the first promulgation of guidelines required by section 1314(i)(2) of this title, or the date of approval by the Administrator of a permit program for such State under subsection (b) of this section, whichever date first occurs, and no such authorization to a State shall extend beyond the last day of such period. Each such permit shall be subject to such conditions as the Administrator determines are necessary to carry out the provisions of this chapter. No such permit shall issue if the Administrator objects to such issuance.

(b) State permit programs

At any time after the promulgation of the guidelines required by subsection (i)(2) of sec-

tion 1314 of this title, the Governor of each State desiring to administer its own permit program for discharges into navigable waters within its jurisdiction may submit to the Administrator a full and complete description of the program it proposes to establish and administer under State law or under an interstate compact. In addition, such State shall submit a statement from the attorney general (or the attorney for those State water pollution control agencies which have independent legal counsel), or from the chief legal officer in the case of an interstate agency, that the laws of such State, or the interstate compact, as the case may be, provide adequate authority to carry out the described program. The Administrator shall approve each submitted program unless he determines that adequate authority does not exist:

(1) To issue permits which—

(A) apply, and insure compliance with, any applicable requirements of sections 1311, 1312, 1316, 1317, and 1343 of this title;

(B) are for fixed terms not exceeding five years; and

(C) can be terminated or modified for cause including, but not limited to, the following:

(i) violation of any condition of the permit;

(ii) obtaining a permit by misrepresentation, or failure to disclose fully all relevant facts;

(iii) change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;

(D) control the disposal of pollutants into wells;

(2)(A) To issue permits which apply, and insure compliance with, all applicable requirements of section 1318 of this title; or

(B) To inspect, monitor, enter, and require reports to at least the same extent as required in section 1318 of this title;

(3) To insure that the public, and any other State the waters of which may be affected, receive notice of each application for a permit and to provide an opportunity for public hearing before a ruling on each such application;

(4) To insure that the Administrator receives notice of each application (including a copy thereof) for a permit;

(5) To insure that any State (other than the permitting State), whose waters may be affected by the issuance of a permit may submit written recommendations to the permitting State (and the Administrator) with respect to any permit application and, if any part of such written recommendations are not accepted by the permitting State, that the permitting State will notify such affected State (and the Administrator) in writing of its failure to so accept such recommendations together with its reasons for so doing;

(6) To insure that no permit will be issued if, in the judgment of the Secretary of the Army acting through the Chief of Engineers, after consultation with the Secretary of the department in which the Coast Guard is operating, anchorage and navigation of any of the navigable waters would be substantially impaired thereby;

(7) To abate violations of the permit or the permit program, including civil and criminal penalties and other ways and means of enforcement;

(8) To insure that any permit for a discharge from a publicly owned treatment works includes conditions to require the identification in terms of character and volume of pollutants of any significant source introducing pollutants subject to pretreatment standards under section 1317(b) of this title into such works and a program to assure compliance with such pretreatment standards by each such source, in addition to adequate notice to the permitting agency of (A) new introductions into such works of pollutants from any source which would be a new source as defined in section 1316 of this title if such source were discharging pollutants, (B) new introductions of pollutants into such works from a source which would be subject to section 1311 of this title if it were discharging such pollutants, or (C) a substantial change in volume or character of pollutants being introduced into such works by a source introducing pollutants into such works at the time of issuance of the permit. Such notice shall include information on the quality and quantity of effluent to be introduced into such treatment works and any anticipated impact of such change in the quantity or quality of effluent to be discharged from such publicly owned treatment works; and

(9) To insure that any industrial user of any publicly owned treatment works will comply with sections 1284(b), 1317, and 1318 of this title.

(c) Suspension of Federal program upon submission of State program; withdrawal of approval of State program; return of State program to Administrator

(1) Not later than ninety days after the date on which a State has submitted a program (or revision thereof) pursuant to subsection (b) of this section, the Administrator shall suspend the issuance of permits under subsection (a) of this section as to those discharges subject to such program unless he determines that the State permit program does not meet the requirements of subsection (b) of this section or does not conform to the guidelines issued under section 1314(i)(2) of this title. If the Administrator so determines, he shall notify the State of any revisions or modifications necessary to conform to such requirements or guidelines.

(2) Any State permit program under this section shall at all times be in accordance with this section and guidelines promulgated pursuant to section 1314(i)(2) of this title.

(3) Whenever the Administrator determines after public hearing that a State is not administering a program approved under this section in accordance with requirements of this section, he shall so notify the State and, if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days, the Administrator shall withdraw approval of such program. The Administrator shall not withdraw approval of any such program unless he shall first have notified the State, and made public, in writing, the reasons for such withdrawal.

(4) LIMITATIONS ON PARTIAL PERMIT PROGRAM RETURNS AND WITHDRAWALS.—A State may return to the Administrator administration, and the Administrator may withdraw under paragraph (3) of this subsection approval, of—

(A) a State partial permit program approved under subsection (n)(3) of this section only if the entire permit program being administered by the State department or agency at the time is returned or withdrawn; and

(B) a State partial permit program approved under subsection (n)(4) of this section only if an entire phased component of the permit program being administered by the State at the time is returned or withdrawn.

(d) Notification of Administrator

(1) Each State shall transmit to the Administrator a copy of each permit application received by such State and provide notice to the Administrator of every action related to the consideration of such permit application, including each permit proposed to be issued by such State.

(2) No permit shall issue (A) if the Administrator within ninety days of the date of his notification under subsection (b)(5) of this section objects in writing to the issuance of such permit, or (B) if the Administrator within ninety days of the date of transmittal of the proposed permit by the State objects in writing to the issuance of such permit as being outside the guidelines and requirements of this chapter. Whenever the Administrator objects to the issuance of a permit under this paragraph such written objection shall contain a statement of the reasons for such objection and the effluent limitations and conditions which such permit would include if it were issued by the Administrator.

(3) The Administrator may, as to any permit application, waive paragraph (2) of this subsection.

(4) In any case where, after December 27, 1977, the Administrator, pursuant to paragraph (2) of this subsection, objects to the issuance of a permit, on request of the State, a public hearing shall be held by the Administrator on such objection. If the State does not resubmit such permit revised to meet such objection within 30 days after completion of the hearing, or, if no hearing is requested within 90 days after the date of such objection, the Administrator may issue the permit pursuant to subsection (a) of this section for such source in accordance with the guidelines and requirements of this chapter.

(e) Waiver of notification requirement

In accordance with guidelines promulgated pursuant to subsection (i)(2) of section 1314 of this title, the Administrator is authorized to waive the requirements of subsection (d) of this section at the time he approves a program pursuant to subsection (b) of this section for any category (including any class, type, or size within such category) of point sources within the State submitting such program.

(f) Point source categories

The Administrator shall promulgate regulations establishing categories of point sources which he determines shall not be subject to the requirements of subsection (d) of this section in any State with a program approved pursuant to subsection (b) of this section. The Administrator may distinguish among classes, types, and sizes within any category of point sources.

(g) Other regulations for safe transportation, handling, carriage, storage, and stowage of pollutants

Any permit issued under this section for the discharge of pollutants into the navigable waters from a vessel or other floating craft shall be subject to any applicable regulations promulgated by the Secretary of the department in which the Coast Guard is operating, establishing specifications for safe transportation, handling, carriage, storage, and stowage of pollutants.

(h) Violation of permit conditions; restriction or prohibition upon introduction of pollutant by source not previously utilizing treatment works

In the event any condition of a permit for discharges from a treatment works (as defined in section 1292 of this title) which is publicly owned is violated, a State with a program approved under subsection (b) of this section or the Administrator, where no State program is approved or where the Administrator determines pursuant to section 1319(a) of this title that a State with an approved program has not commenced appropriate enforcement action with respect to such permit, may proceed in a court of competent jurisdiction to restrict or prohibit the introduction of any pollutant into such treatment works by a source not utilizing such treatment works prior to the finding that such condition was violated.

(i) Federal enforcement not limited

Nothing in this section shall be construed to limit the authority of the Administrator to take action pursuant to section 1319 of this title.

(j) Public information

A copy of each permit application and each permit issued under this section shall be available to the public. Such permit application or permit, or portion thereof, shall further be available on request for the purpose of reproduction.

(k) Compliance with permits

Compliance with a permit issued pursuant to this section shall be deemed compliance, for purposes of sections 1319 and 1365 of this title, with sections 1311, 1312, 1316, 1317, and 1343 of this title, except any standard imposed under section 1317 of this title for a toxic pollutant injurious to human health. Until December 31, 1974, in any case where a permit for discharge has been applied for pursuant to this section, but final administrative disposition of such application has not been made, such discharge shall not be a violation of (1) section 1311, 1316, or 1342 of this title, or (2) section 407 of this title, unless the Administrator or other plaintiff proves that final administrative disposition of such application has not been made because of the failure of the applicant to furnish information reasonably required or requested in order to process the application. For the 180-day period beginning on October 18, 1972, in the case of any point source discharging any pollutant or combination of pollutants immediately prior to such date which source is not subject to section 407 of this title, the discharge by such source shall not be a violation of this chapter if such a source applies for

a permit for discharge pursuant to this section within such 180-day period.

(*l*) Limitation on permit requirement

(1) Agricultural return flows

The Administrator shall not require a permit under this section for discharges composed entirely of return flows from irrigated agriculture, nor shall the Administrator directly or indirectly, require any State to require such a permit.

(2) Stormwater runoff from oil, gas, and mining operations

The Administrator shall not require a permit under this section, nor shall the Administrator directly or indirectly require any State to require a permit, for discharges of stormwater runoff from mining operations or oil and gas exploration, production, processing, or treatment operations or transmission facilities, composed entirely of flows which are from conveyances or systems of conveyances (including but not limited to pipes, conduits, ditches, and channels) used for collecting and conveying precipitation runoff and which are not contaminated by contact with, or do not come into contact with, any overburden, raw material, intermediate products, finished product, byproduct, or waste products located on the site of such operations.

(m) Additional pretreatment of conventional pollutants not required

To the extent a treatment works (as defined in section 1292 of this title) which is publicly owned is not meeting the requirements of a permit issued under this section for such treatment works as a result of inadequate design or operation of such treatment works, the Administrator, in issuing a permit under this section, shall not require pretreatment by a person introducing conventional pollutants identified pursuant to section 1314(a)(4) of this title into such treatment works other than pretreatment required to assure compliance with pretreatment standards under subsection (b)(8) of this section and section 1317(b)(1) of this title. Nothing in this subsection shall affect the Administrator's authority under sections 1317 and 1319 of this title, affect State and local authority under sections 1317(b)(4) and 1370 of this title, relieve such treatment works of its obligations to meet requirements established under this chapter, or otherwise preclude such works from pursuing whatever feasible options are available to meet its responsibility to comply with its permit under this section.

(n) Partial permit program

(1) State submission

The Governor of a State may submit under subsection (b) of this section a permit program for a portion of the discharges into the navigable waters in such State.

(2) Minimum coverage

A partial permit program under this subsection shall cover, at a minimum, administration of a major category of the discharges into the navigable waters of the State or a major component of the permit program required by subsection (b) of this section.

(3) Approval of major category partial permit programs

The Administrator may approve a partial permit program covering administration of a major category of discharges under this subsection if—

(A) such program represents a complete permit program and covers all of the discharges under the jurisdiction of a department or agency of the State; and

(B) the Administrator determines that the partial program represents a significant and identifiable part of the State program required by subsection (b) of this section.

(4) Approval of major component partial permit programs

The Administrator may approve under this subsection a partial and phased permit program covering administration of a major component (including discharge categories) of a State permit program required by subsection (b) of this section if—

(A) the Administrator determines that the partial program represents a significant and identifiable part of the State program required by subsection (b) of this section; and

(B) the State submits, and the Administrator approves, a plan for the State to assume administration by phases of the remainder of the State program required by subsection (b) of this section by a specified date not more than 5 years after submission of the partial program under this subsection and agrees to make all reasonable efforts to assume such administration by such date.

(*o*) Anti-backsliding

(1) General prohibition

In the case of effluent limitations established on the basis of subsection (a)(1)(B) of this section, a permit may not be renewed, reissued, or modified on the basis of effluent guidelines promulgated under section 1314(b) of this title subsequent to the original issuance of such permit, to contain effluent limitations which are less stringent than the comparable effluent limitations in the previous permit. In the case of effluent limitations established on the basis of section 1311(b)(1)(C) or section 1313(d) or (e) of this title, a permit may not be renewed, reissued, or modified to contain effluent limitations which are less stringent than the comparable effluent limitations in the previous permit except in compliance with section 1313(d)(4) of this title.

(2) Exceptions

A permit with respect to which paragraph (1) applies may be renewed, reissued, or modified to contain a less stringent effluent limitation applicable to a pollutant if—

(A) material and substantial alterations or additions to the permitted facility occurred after permit issuance which justify the application of a less stringent effluent limitation;

(B)(i) information is available which was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and which would have justi-

fied the application of a less stringent effluent limitation at the time of permit issuance; or

(ii) the Administrator determines that technical mistakes or mistaken interpretations of law were made in issuing the permit under subsection (a)(1)(B) of this section;

(C) a less stringent effluent limitation is necessary because of events over which the permittee has no control and for which there is no reasonably available remedy;

(D) the permittee has received a permit modification under section 1311(c), 1311(g), 1311(h), 1311(i), 1311(k), 1311(n), or 1326(a) of this title; or

(E) the permittee has installed the treatment facilities required to meet the effluent limitations in the previous permit and has properly operated and maintained the facilities but has nevertheless been unable to achieve the previous effluent limitations, in which case the limitations in the reviewed, reissued, or modified permit may reflect the level of pollutant control actually achieved (but shall not be less stringent than required by effluent guidelines in effect at the time of permit renewal, reissuance, or modification).

Subparagraph (B) shall not apply to any revised waste load allocations or any alternative grounds for translating water quality standards into effluent limitations, except where the cumulative effect of such revised allocations results in a decrease in the amount of pollutants discharged into the concerned waters, and such revised allocations are not the result of a discharger eliminating or substantially reducing its discharge of pollutants due to complying with the requirements of this chapter or for reasons otherwise unrelated to water quality.

(3) Limitations

In no event may a permit with respect to which paragraph (1) applies be renewed, reissued, or modified to contain an effluent limitation which is less stringent than required by effluent guidelines in effect at the time the permit is renewed, reissued, or modified. In no event may such a permit to discharge into waters be renewed, reissued, or modified to contain a less stringent effluent limitation if the implementation of such limitation would result in a violation of a water quality standard under section 1313 of this title applicable to such waters.

(p) Municipal and industrial stormwater discharges

(1) General rule

Prior to October 1, 1994, the Administrator or the State (in the case of a permit program approved under this section) shall not require a permit under this section for discharges composed entirely of stormwater.

(2) Exceptions

Paragraph (1) shall not apply with respect to the following stormwater discharges:

(A) A discharge with respect to which a permit has been issued under this section before February 4, 1987.

(B) A discharge associated with industrial activity.

(C) A discharge from a municipal separate storm sewer system serving a population of 250,000 or more.

(D) A discharge from a municipal separate storm sewer system serving a population of 100,000 or more but less than 250,000.

(E) A discharge for which the Administrator or the State, as the case may be, determines that the stormwater discharge contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the United States.

(3) Permit requirements

(A) Industrial discharges

Permits for discharges associated with industrial activity shall meet all applicable provisions of this section and section 1311 of this title.

(B) Municipal discharge

Permits for discharges from municipal storm sewers—

(i) may be issued on a system- or jurisdiction-wide basis;

(ii) shall include a requirement to effectively prohibit non-stormwater discharges into the storm sewers; and

(iii) shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants.

(4) Permit application requirements

(A) Industrial and large municipal discharges

Not later than 2 years after February 4, 1987, the Administrator shall establish regulations setting forth the permit application requirements for stormwater discharges described in paragraphs (2)(B) and (2)(C). Applications for permits for such discharges shall be filed no later than 3 years after February 4, 1987. Not later than 4 years after February 4, 1987, the Administrator or the State, as the case may be, shall issue or deny each such permit. Any such permit shall provide for compliance as expeditiously as practicable, but in no event later than 3 years after the date of issuance of such permit.

(B) Other municipal discharges

Not later than 4 years after February 4, 1987, the Administrator shall establish regulations setting forth the permit application requirements for stormwater discharges described in paragraph (2)(D). Applications for permits for such discharges shall be filed no later than 5 years after February 4, 1987. Not later than 6 years after February 4, 1987, the Administrator or the State, as the case may be, shall issue or deny each such permit. Any such permit shall provide for compliance as expeditiously as practicable, but in no event later than 3 years after the date of issuance of such permit.

(5) Studies

The Administrator, in consultation with the States, shall conduct a study for the purposes of—

(A) identifying those stormwater discharges or classes of stormwater discharges for which permits are not required pursuant to paragraphs (1) and (2) of this subsection;

(B) determining, to the maximum extent practicable, the nature and extent of pollutants in such discharges; and

(C) establishing procedures and methods to control stormwater discharges to the extent necessary to mitigate impacts on water quality.

Not later than October 1, 1988, the Administrator shall submit to Congress a report on the results of the study described in subparagraphs (A) and (B). Not later than October 1, 1989, the Administrator shall submit to Congress a report on the results of the study described in subparagraph (C).

(6) Regulations

Not later than October 1, 1993, the Administrator, in consultation with State and local officials, shall issue regulations (based on the results of the studies conducted under paragraph (5)) which designate stormwater discharges, other than those discharges described in paragraph (2), to be regulated to protect water quality and shall establish a comprehensive program to regulate such designated sources. The program shall, at a minimum, (A) establish priorities, (B) establish requirements for State stormwater management programs, and (C) establish expeditious deadlines. The program may include performance standards, guidelines, guidance, and management practices and treatment requirements, as appropriate.

(q) Combined sewer overflows

(1) Requirement for permits, orders, and decrees

Each permit, order, or decree issued pursuant to this chapter after December 21, 2000, for a discharge from a municipal combined storm and sanitary sewer shall conform to the Combined Sewer Overflow Control Policy signed by the Administrator on April 11, 1994 (in this subsection referred to as the "CSO control policy").

(2) Water quality and designated use review guidance

Not later than July 31, 2001, and after providing notice and opportunity for public comment, the Administrator shall issue guidance to facilitate the conduct of water quality and designated use reviews for municipal combined sewer overflow receiving waters.

(3) Report

Not later than September 1, 2001, the Administrator shall transmit to Congress a report on the progress made by the Environmental Protection Agency, States, and municipalities in implementing and enforcing the CSO control policy.

(r) Discharges incidental to the normal operation of recreational vessels

No permit shall be required under this chapter by the Administrator (or a State, in the case of a permit program approved under subsection (b)) for the discharge of any graywater, bilge water, cooling water, weather deck runoff, oil water separator effluent, or effluent from properly functioning marine engines, or any other discharge that is incidental to the normal operation of a vessel, if the discharge is from a recreational vessel.

(June 30, 1948, ch. 758, title IV, § 402, as added Pub. L. 92–500, § 2, Oct. 18, 1972, 86 Stat. 880; amended Pub. L. 95–217, §§ 33(c), 50, 54(c)(1), 65, 66, Dec. 27, 1977, 91 Stat. 1577, 1588, 1591, 1599, 1600; Pub. L. 100–4, title IV, §§ 401–404(a), 404(c), formerly 404(d), 405, Feb. 4, 1987, 101 Stat. 65–67, 69, renumbered § 404(c), Pub. L. 104–66, title II, § 2021(e)(2), Dec. 21, 1995, 109 Stat. 727; Pub. L. 102–580, title III, § 364, Oct. 31, 1992, 106 Stat. 4862; Pub. L. 106–554, § 1(a)(4) [div. B, title I, § 112(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A–224; Pub. L. 110–288, § 2, July 29, 2008, 122 Stat. 2650.)

AMENDMENTS

2008—Subsec. (r). Pub. L. 110–288 added subsec. (r).

2000—Subsec. (q). Pub. L. 106–554 added subsec. (q).

1992—Subsec. (p)(1), (6). Pub. L. 102–580 substituted "October 1, 1994" for "October 1, 1992" in par. (1) and "October 1, 1993" for "October 1, 1992" in par. (6).

1987—Subsec. (a)(1). Pub. L. 100–4, § 404(c), inserted cl. (A) and (B) designations.

Subsec. (c)(1). Pub. L. 100–4, § 403(b)(2), substituted "as to those discharges" for "as to those navigable waters".

Subsec. (c)(4). Pub. L. 100–4, § 403(b)(1), added par. (4).

Subsec. (*l*). Pub. L. 100–4, § 401, inserted "Limitation on permit requirement" as subsec. heading designated existing provisions as par. (1) and inserted par. heading, added par. (2), and aligned pars. (1) and (2).

Subsecs. (m) to (p). Pub. L. 100–4, §§ 402, 403(a), 404(a), 405, added subsecs. (m) to (p).

1977—Subsec. (a)(5). Pub. L. 95–217, § 50, substituted "section 1314(l)(2)" for "section 1314(h)(2)".

Subsec. (b). Pub. L. 95–217, § 50, substituted in provisions preceding par. (1) "subsection (l)(2) of section 1314" for "subsection (h)(2) of section 1314".

Subsec. (b)(8). Pub. L. 95–217, § 54(c)(1), inserted reference to identification in terms of character and volume of pollutants of any significant source introducing pollutants subject to pretreatment standards under section 1317(b) of this title into treatment works and programs to assure compliance with pretreatment standards by each source.

Subsec. (c)(1), (2). Pub. L. 95–217, § 50, substituted "section 1314(l)(2)" for "section 1314(h)(2)".

Subsec. (d)(2). Pub. L. 95–217, § 65(b), inserted provision requiring that, whenever the Administrator objects to the issuance of a permit under subsec. (d)(2) of this section, the written objection contain a statement of the reasons for the objection and the effluent limitations and conditions which the permit would include if it were issued by the Administrator.

Subsec. (d)(4). Pub. L. 95–217, § 65(a), added par. (4).

Subsec. (e). Pub. L. 95–217, § 50, substituted "subsection (l)(2) of section 1314" for "subsection (h)(2) of section 1314".

Subsec. (h). Pub. L. 95–217, § 66, substituted "where no State program is approved or where the Administrator determines pursuant to section 1319(a) of this title that a State with an approved program has not commenced appropriate enforcement action with respect to such permit," for "where no State program is approved,".

Subsec. (*l*). Pub. L. 95–217, § 33(c), added subsec. (*l*).

that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, in such manner and upon such terms and conditions as the court may deem proper. The Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original determination, with the return of such additional evidence.

(June 30, 1948, ch. 758, title V, § 509, as added Pub. L. 92–500, § 2, Oct. 18, 1972, 86 Stat. 891; amended Pub. L. 93–207, § 1(6), Dec. 28, 1973, 87 Stat. 906; Pub. L. 100–4, title III, § 308(b), title IV, § 406(d)(3), title V, § 505(a), (b), Feb. 4, 1987, 101 Stat. 39, 73, 75; Pub. L. 100–236, § 2, Jan. 8, 1988, 101 Stat. 1732.)

AMENDMENTS

1988—Subsec. (b)(3), (4). Pub. L. 100–236 redesignated par. (4) as (3) and struck out former par. (3) relating to venue, which provided for selection procedure in subpar. (A), administrative provisions in subpar. (B), and transfers in subpar. (C).

1987—Subsec. (b)(1). Pub. L. 100–4, §§ 308(b), 406(d)(3), 505(a), substituted "transacts business which is directly affected by such action" for "transacts such business", "120" for "ninety", and "120th" for "ninetieth", substituted "1316 or 1345 of this title" for "or 1316 of this title" in cl. (E), and added cl. (G).

Subsec. (b)(3), (4). Pub. L. 100–4, § 505(b), added pars. (3) and (4).

1973—Subsec. (b)(1)(C). Pub. L. 93–207 substituted "pretreatment" for "treatment".

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–236 effective 180 days after Jan. 8, 1988, see section 3 of Pub. L. 100–236, set out as a note under section 2112 of Title 28, Judiciary and Judicial Procedure.

§ 1370. State authority

Except as expressly provided in this chapter, nothing in this chapter shall (1) preclude or deny the right of any State or political subdivision thereof or interstate agency to adopt or enforce (A) any standard or limitation respecting discharges of pollutants, or (B) any requirement respecting control or abatement of pollution; except that if an effluent limitation, or other limitation, effluent standard, prohibition, pretreatment standard, or standard of performance is in effect under this chapter, such State or political subdivision or interstate agency may not adopt or enforce any effluent limitation, or other limitation, effluent standard, prohibition, pretreatment standard, or standard of performance which is less stringent than the effluent limitation, or other limitation, effluent standard, prohibition, pretreatment standard, or standard of performance under this chapter; or (2) be construed as impairing or in any manner affecting any right or jurisdiction of the States with respect to the waters (including boundary waters) of such States.

(June 30, 1948, ch. 758, title V, § 510, as added Pub. L. 92–500, § 2, Oct. 18, 1972, 86 Stat. 893.)

§ 1371. Authority under other laws and regulations

(a) Impairment of authority or functions of officials and agencies; treaty provisions

This chapter shall not be construed as (1) limiting the authority or functions of any officer or agency of the United States under any other law or regulation not inconsistent with this chapter; (2) affecting or impairing the authority of the Secretary of the Army (A) to maintain navigation or (B) under the Act of March 3, 1899, (30 Stat. 1112) except that any permit issued under section 1344 of this title shall be conclusive as to the effect on water quality of any discharge resulting from any activity subject to section 403 of this title, or (3) affecting or impairing the provisions of any treaty of the United States.

(b) Discharges of pollutants into navigable waters

Discharges of pollutants into the navigable waters subject to the Rivers and Harbors Act of 1910 (36 Stat. 593; 33 U.S.C. 421) and the Supervisory Harbors Act of 1888 (25 Stat. 209; 33 U.S.C. 441–451b) shall be regulated pursuant to this chapter, and not subject to such Act of 1910 and the Act of 1888 except as to effect on navigation and anchorage.

(c) Action of the Administrator deemed major Federal action; construction of the National Environmental Policy Act of 1969

(1) Except for the provision of Federal financial assistance for the purpose of assisting the construction of publicly owned treatment works as authorized by section 1281 of this title, and the issuance of a permit under section 1342 of this title for the discharge of any pollutant by a new source as defined in section 1316 of this title, no action of the Administrator taken pursuant to this chapter shall be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 852) [42 U.S.C. 4321 et seq.]; and

(2) Nothing in the National Environmental Policy Act of 1969 (83 Stat. 852) shall be deemed to—

(A) authorize any Federal agency authorized to license or permit the conduct of any activity which may result in the discharge of a pollutant into the navigable waters to review any effluent limitation or other requirement established pursuant to this chapter or the adequacy of any certification under section 1341 of this title; or

(B) authorize any such agency to impose, as a condition precedent to the issuance of any license or permit, any effluent limitation other than any such limitation established pursuant to this chapter.

(d) Consideration of international water pollution control agreements

Notwithstanding this chapter or any other provision of law, the Administrator (1) shall not require any State to consider in the development of the ranking in order of priority of needs for the construction of treatment works (as defined in subchapter II of this chapter), any water pollution control agreement which may have

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

into that designated area for the maintenance or production of harvestable freshwater, estuarine, or marine plants or animals.

(2) *Designated project area* means the portions of the waters of the United States within which the permittee or permit applicant plans to confine the cultivated species, using a method or plan or operation (including, but not limited to, physical confinement) which, on the basis of reliable scientific evidence, is expected to ensure that specific individual organisms comprising an aquaculture crop will enjoy increased growth attributable to the discharge of pollutants, and be harvested within a defined geographic area.

§ 122.26 Storm water discharges (applicable to State NPDES programs, see § 123.25).

(a) *Permit requirement.* (1) Prior to October 1, 1994, discharges composed entirely of storm water shall not be required to obtain a NPDES permit except:

(i) A discharge with respect to which a permit has been issued prior to February 4, 1987;

(ii) A discharge associated with industrial activity (see §122.26(a)(4));

(iii) A discharge from a large municipal separate storm sewer system;

(iv) A discharge from a medium municipal separate storm sewer system;

(v) A discharge which the Director, or in States with approved NPDES programs, either the Director or the EPA Regional Administrator, determines to contribute to a violation of a water quality standard or is a significant contributor of pollutants to waters of the United States. This designation may include a discharge from any conveyance or system of conveyances used for collecting and conveying storm water runoff or a system of discharges from municipal separate storm sewers, except for those discharges from conveyances which do not require a permit under paragraph (a)(2) of this section or agricultural storm water runoff which is exempted from the definition of point source at §122.2.

The Director may designate discharges from municipal separate storm sewers on a system-wide or jurisdiction-wide basis. In making this determination the Director may consider the following factors:

(A) The location of the discharge with respect to waters of the United States as defined at 40 CFR 122.2.

(B) The size of the discharge;

(C) The quantity and nature of the pollutants discharged to waters of the United States; and

(D) Other relevant factors.

(2) The Director may not require a permit for discharges of storm water runoff from the following:

(i) Mining operations composed entirely of flows which are from conveyances or systems of conveyances (including but not limited to pipes, conduits, ditches, and channels) used for collecting and conveying precipitation runoff and which are not contaminated by contact with or that have not come into contact with, any overburden, raw material, intermediate products, finished product, byproduct, or waste products located on the site of such operations, except in accordance with paragraph (c)(1)(iv) of this section.

(ii) All field activities or operations associated with oil and gas exploration, production, processing, or treatment operations or transmission facilities, including activities necessary to prepare a site for drilling and for the movement and placement of drilling equipment, whether or not such field activities or operations may be considered to be construction activities, except in accordance with paragraph (c)(1)(iii) of this section. Discharges of sediment from construction activities associated with oil and gas exploration, production, processing, or treatment operations or transmission facilities are not subject to the provisions of paragraph (c)(1)(iii)(C) of this section.

NOTE TO PARAGRAPH (a)(2)(ii): EPA encourages operators of oil and gas field activities or operations to implement and maintain Best Management Practices (BMPs) to minimize discharges of pollutants, including sediment, in storm water both during and after construction activities to help ensure protection of surface water quality during storm events. Appropriate controls would be those suitable to the site conditions and consistent with generally accepted engineering design criteria and manufacturer specifications. Selection of BMPs could also be affected by seasonal or climate conditions.

(3) *Large and medium municipal separate storm sewer systems.* (i) Permits must be obtained for all discharges from large and medium municipal separate storm sewer systems.

(ii) The Director may either issue one system-wide permit covering all discharges from municipal separate storm sewers within a large or medium municipal storm sewer system or issue distinct permits for appropriate categories of discharges within a large or medium municipal separate storm sewer system including, but not limited to: all discharges owned or operated by the same municipality; located within the same jurisdiction; all discharges within a system that discharge to the same watershed; discharges within a system that are similar in nature; or for individual discharges from municipal separate storm sewers within the system.

(iii) The operator of a discharge from a municipal separate storm sewer which is part of a large or medium municipal separate storm sewer system must either:

(A) Participate in a permit application (to be a permittee or a co-permittee) with one or more other operators of discharges from the large or medium municipal storm sewer system which covers all, or a portion of all, discharges from the municipal separate storm sewer system;

(B) Submit a distinct permit application which only covers discharges from the municipal separate storm sewers for which the operator is responsible; or

(C) A regional authority may be responsible for submitting a permit application under the following guidelines:

(*1*) The regional authority together with co-applicants shall have authority over a storm water management program that is in existence, or shall be in existence at the time part 1 of the application is due;

(*2*) The permit applicant or co-applicants shall establish their ability to make a timely submission of part 1 and part 2 of the municipal application;

(*3*) Each of the operators of municipal separate storm sewers within the systems described in paragraphs (b)(4) (i), (ii), and (iii) or (b)(7) (i), (ii), and (iii) of this section, that are under the purview of the designated regional authority, shall comply with the application requirements of paragraph (d) of this section.

(iv) One permit application may be submitted for all or a portion of all municipal separate storm sewers within adjacent or interconnected large or medium municipal separate storm sewer systems. The Director may issue one system-wide permit covering all, or a portion of all municipal separate storm sewers in adjacent or interconnected large or medium municipal separate storm sewer systems.

(v) Permits for all or a portion of all discharges from large or medium municipal separate storm sewer systems that are issued on a system-wide, jurisdiction-wide, watershed or other basis may specify different conditions relating to different discharges covered by the permit, including different management programs for different drainage areas which contribute storm water to the system.

(vi) Co-permittees need only comply with permit conditions relating to discharges from the municipal separate storm sewers for which they are operators.

(4) *Discharges through large and medium municipal separate storm sewer systems.* In addition to meeting the requirements of paragraph (c) of this section, an operator of a storm water discharge associated with industrial activity which discharges through a large or medium municipal separate storm sewer system shall submit, to the operator of the municipal separate storm sewer system receiving the discharge no later than May 15, 1991, or 180 days prior to commencing such discharge: the name of the facility; a contact person and phone number; the location of the discharge; a description, including Standard Industrial Classification, which best reflects the principal products or services provided by each facility; and any existing NPDES permit number.

(5) *Other municipal separate storm sewers.* The Director may issue permits for municipal separate storm sewers that are designated under paragraph (a)(1)(v) of this section on a system-

wide basis, jurisdiction-wide basis, watershed basis or other appropriate basis, or may issue permits for individual discharges.

(6) *Non-municipal separate storm sewers.* For storm water discharges associated with industrial activity from point sources which discharge through a non-municipal or non-publicly owned separate storm sewer system, the Director, in his discretion, may issue: a single NPDES permit, with each discharger a co-permittee to a permit issued to the operator of the portion of the system that discharges into waters of the United States; or, individual permits to each discharger of storm water associated with industrial activity through the non-municipal conveyance system.

(i) All storm water discharges associated with industrial activity that discharge through a storm water discharge system that is not a municipal separate storm sewer must be covered by an individual permit, or a permit issued to the operator of the portion of the system that discharges to waters of the United States, with each discharger to the non-municipal conveyance a co-permittee to that permit.

(ii) Where there is more than one operator of a single system of such conveyances, all operators of storm water discharges associated with industrial activity must submit applications.

(iii) Any permit covering more than one operator shall identify the effluent limitations, or other permit conditions, if any, that apply to each operator.

(7) *Combined sewer systems.* Conveyances that discharge storm water runoff combined with municipal sewage are point sources that must obtain NPDES permits in accordance with the procedures of §122.21 and are not subject to the provisions of this section.

(8) Whether a discharge from a municipal separate storm sewer is or is not subject to regulation under this section shall have no bearing on whether the owner or operator of the discharge is eligible for funding under title II, title III or title VI of the Clean Water Act. *See* 40 CFR part 35, subpart I, appendix A(b)H.2.j.

(9)(i) On and after October 1, 1994, for discharges composed entirely of storm water, that are not required by paragraph (a)(1) of this section to obtain a permit, operators shall be required to obtain a NPDES permit only if:

(A) The discharge is from a small MS4 required to be regulated pursuant to §122.32;

(B) The discharge is a storm water discharge associated with small construction activity pursuant to paragraph (b)(15) of this section;

(C) The Director, or in States with approved NPDES programs either the Director or the EPA Regional Administrator, determines that storm water controls are needed for the discharge based on wasteload allocations that are part of "total maximum daily loads" (TMDLs) that address the pollutant(s) of concern; or

(D) The Director, or in States with approved NPDES programs either the Director or the EPA Regional Administrator, determines that the discharge, or category of discharges within a geographic area, contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the United States.

(ii) Operators of small MS4s designated pursuant to paragraphs (a)(9)(i)(A), (a)(9)(i)(C), and (a)(9)(i)(D) of this section shall seek coverage under an NPDES permit in accordance with §§122.33 through 122.35. Operators of non-municipal sources designated pursuant to paragraphs (a)(9)(i)(B), (a)(9)(i)(C), and (a)(9)(i)(D) of this section shall seek coverage under an NPDES permit in accordance with paragraph (c)(1) of this section.

(iii) Operators of storm water discharges designated pursuant to paragraphs (a)(9)(i)(C) and (a)(9)(i)(D) of this section shall apply to the Director for a permit within 180 days of receipt of notice, unless permission for a later date is granted by the Director (see §124.52(c) of this chapter).

(b) *Definitions.* (1) *Co-permittee* means a permittee to a NPDES permit that is only responsible for permit conditions relating to the discharge for which it is operator.

(2) *Illicit discharge* means any discharge to a municipal separate storm sewer that is not composed entirely of storm water except discharges pursuant to a NPDES permit (other than the

NPDES permit for discharges from the municipal separate storm sewer) and discharges resulting from fire fighting activities.

(3) *Incorporated place* means the District of Columbia, or a city, town, township, or village that is incorporated under the laws of the State in which it is located.

(4) *Large municipal separate storm sewer system* means all municipal separate storm sewers that are either:

(i) Located in an incorporated place with a population of 250,000 or more as determined by the 1990 Decennial Census by the Bureau of the Census (Appendix F of this part); or

(ii) Located in the counties listed in appendix H, except municipal separate storm sewers that are located in the incorporated places, townships or towns within such counties; or

(iii) Owned or operated by a municipality other than those described in paragraph (b)(4) (i) or (ii) of this section and that are designated by the Director as part of the large or medium municipal separate storm sewer system due to the interrelationship between the discharges of the designated storm sewer and the discharges from municipal separate storm sewers described under paragraph (b)(4) (i) or (ii) of this section. In making this determination the Director may consider the following factors:

(A) Physical interconnections between the municipal separate storm sewers;

(B) The location of discharges from the designated municipal separate storm sewer relative to discharges from municipal separate storm sewers described in paragraph (b)(4)(i) of this section;

(C) The quantity and nature of pollutants discharged to waters of the United States;

(D) The nature of the receiving waters; and

(E) Other relevant factors; or

(iv) The Director may, upon petition, designate as a large municipal separate storm sewer system, municipal separate storm sewers located within the boundaries of a region defined by a storm water management regional authority based on a jurisdictional, watershed, or other appropriate basis that includes one or more of the systems described in paragraph (b)(4) (i), (ii), (iii) of this section.

(5) *Major municipal separate storm sewer outfall* (or "major outfall") means a municipal separate storm sewer outfall that discharges from a single pipe with an inside diameter of 36 inches or more or its equivalent (discharge from a single conveyance other than circular pipe which is associated with a drainage area of more than 50 acres); or for municipal separate storm sewers that receive storm water from lands zoned for industrial activity (based on comprehensive zoning plans or the equivalent), an outfall that discharges from a single pipe with an inside diameter of 12 inches or more or from its equivalent (discharge from other than a circular pipe associated with a drainage area of 2 acres or more).

(6) *Major outfall* means a major municipal separate storm sewer outfall.

(7) *Medium municipal separate storm sewer system* means all municipal separate storm sewers that are either:

(i) Located in an incorporated place with a population of 100,000 or more but less than 250,000, as determined by the 1990 Decennial Census by the Bureau of the Census (appendix G of this part); or

(ii) Located in the counties listed in appendix I, except municipal separate storm sewers that are located in the incorporated places, townships or towns within such counties; or

(iii) Owned or operated by a municipality other than those described in paragraph (b)(7) (i) or (ii) of this section and that are designated by the Director as part of the large or medium municipal separate storm sewer system due to the interrelationship between the discharges of the designated storm sewer and the discharges from municipal separate storm sewers described under paragraph (b)(7) (i) or (ii) of this section. In making this determination the Director may consider the following factors:

(A) Physical interconnections between the municipal separate storm sewers;

(B) The location of discharges from the designated municipal separate storm sewer relative to discharges from municipal separate storm sewers

described in paragraph (b)(7)(i) of this section;

(C) The quantity and nature of pollutants discharged to waters of the United States;

(D) The nature of the receiving waters; or

(E) Other relevant factors; or

(iv) The Director may, upon petition, designate as a medium municipal separate storm sewer system, municipal separate storm sewers located within the boundaries of a region defined by a storm water management regional authority based on a jurisdictional, watershed, or other appropriate basis that includes one or more of the systems described in paragraphs (b)(7) (i), (ii), (iii) of this section.

(8) *Municipal separate storm sewer* means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains):

(i) Owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States;

(ii) Designed or used for collecting or conveying storm water;

(iii) Which is not a combined sewer; and

(iv) Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2.

(9) *Outfall* means a *point source* as defined by 40 CFR 122.2 at the point where a municipal separate storm sewer discharges to waters of the United States and does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels or other conveyances which connect segments of the same stream or other waters of the United States and are used to convey waters of the United States.

(10) *Overburden* means any material of any nature, consolidated or unconsolidated, that overlies a mineral deposit, excluding topsoil or similar naturally-occurring surface materials that are not disturbed by mining operations.

(11) *Runoff coefficient* means the fraction of total rainfall that will appear at a conveyance as runoff.

(12) *Significant materials* includes, but is not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under section 101(14) of CERCLA; any chemical the facility is required to report pursuant to section 313 of title III of SARA; fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with storm water discharges.

(13) *Storm water* means storm water runoff, snow melt runoff, and surface runoff and drainage.

(14) *Storm water discharge associated with industrial activity* means the discharge from any conveyance that is used for collecting and conveying storm water and that is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the NPDES program under this part 122. For the categories of industries identified in this section, the term includes, but is not limited to, storm water discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process waste waters (as defined at part 401 of this chapter); sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas

(including tank farms) for raw materials, and intermediate and final products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water. For the purposes of this paragraph, material handling activities include storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product, by-product or waste product. The term excludes areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with storm water drained from the above described areas. Industrial facilities (including industrial facilities that are federally, State, or municipally owned or operated that meet the description of the facilities listed in paragraphs (b)(14)(i) through (xi) of this section) include those facilities designated under the provisions of paragraph (a)(1)(v) of this section. The following categories of facilities are considered to be engaging in "industrial activity" for purposes of paragraph (b)(14):

(i) Facilities subject to storm water effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR subchapter N (except facilities with toxic pollutant effluent standards which are exempted under category (xi) in paragraph (b)(14) of this section);

(ii) Facilities classified within Standard Industrial Classification 24, Industry Group 241 that are rock crushing, gravel washing, log sorting, or log storage facilities operated in connection with silvicultural activities defined in 40 CFR 122.27(b)(2)–(3) and Industry Groups 242 through 249; 26 (except 265 and 267), 28 (except 283), 29, 311, 32 (except 323), 33, 3441, 373; (not included are all other types of silviculture facilities);

(iii) Facilities classified as Standard Industrial Classifications 10 through 14 (mineral industry) including active or inactive mining operations (except for areas of coal mining operations no longer meeting the definition of a reclamation area under 40 CFR 434.11(l) because the performance bond issued to the facility by the appropriate SMCRA authority has been released, or except for areas of non-coal mining operations which have been released from applicable State or Federal reclamation requirements after December 17, 1990) and oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge storm water contaminated by contact with or that has come into contact with, any overburden, raw material, intermediate products, finished products, byproducts or waste products located on the site of such operations; (inactive mining operations are mining sites that are not being actively mined, but which have an identifiable owner/operator; inactive mining sites do not include sites where mining claims are being maintained prior to disturbances associated with the extraction, beneficiation, or processing of mined materials, nor sites where minimal activities are undertaken for the sole purpose of maintaining a mining claim);

(iv) Hazardous waste treatment, storage, or disposal facilities, including those that are operating under interim status or a permit under subtitle C of RCRA;

(v) Landfills, land application sites, and open dumps that receive or have received any industrial wastes (waste that is received from any of the facilities described under this subsection) including those that are subject to regulation under subtitle D of RCRA;

(vi) Facilities involved in the recycling of materials, including metal scrapyards, battery reclaimers, salvage yards, and automobile junkyards, including but limited to those classified as Standard Industrial Classification 5015 and 5093;

(vii) Steam electric power generating facilities, including coal handling sites;

(viii) Transportation facilities classified as Standard Industrial Classifications 40, 41, 42 (except 4221–25), 43, 44, 45, and 5171 which have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning

operations, airport deicing operations, or which are otherwise identified under paragraphs (b)(14) (i)–(vii) or (ix)–(xi) of this section are associated with industrial activity;

(ix) Treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that are located within the confines of the facility, with a design flow of 1.0 mgd or more, or required to have an approved pretreatment program under 40 CFR part 403. Not included are farm lands, domestic gardens or lands used for sludge management where sludge is beneficially reused and which are not physically located in the confines of the facility, or areas that are in compliance with section 405 of the CWA;

(x) Construction activity including clearing, grading and excavation, except operations that result in the disturbance of less than five acres of total land area. Construction activity also includes the disturbance of less than five acres of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres or more;

(xi) Facilities under Standard Industrial Classifications 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 285, 30, 31 (except 311), 323, 34 (except 3441), 35, 36, 37 (except 373), 38, 39, and 4221–25;

(15) *Storm water discharge associated with small construction activity* means the discharge of storm water from:

(i) Construction activities including clearing, grading, and excavating that result in land disturbance of equal to or greater than one acre and less than five acres. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five acres. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility. The Director may waive the otherwise applicable requirements in a general permit for a storm water discharge from construction activities that disturb less than five acres where:

(A) The value of the rainfall erosivity factor ("R" in the Revised Universal Soil Loss Equation) is less than five during the period of construction activity. The rainfall erosivity factor is determined in accordance with Chapter 2 of *Agriculture Handbook Number 703, Predicting Soil Erosion by Water: A Guide to Conservation Planning With the Revised Universal Soil Loss Equation (RUSLE)*, pages 21–64, dated January 1997. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C 552(a) and 1 CFR part 51. Copies may be obtained from EPA's Water Resource Center, Mail Code RC4100, 401 M St. SW, Washington, DC 20460. A copy is also available for inspection at the U.S. EPA Water Docket , 401 M Street SW, Washington, DC 20460, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*. An operator must certify to the Director that the construction activity will take place during a period when the value of the rainfall erosivity factor is less than five; or

(B) Storm water controls are not needed based on a "total maximum daily load" (TMDL) approved or established by EPA that addresses the pollutant(s) of concern or, for non-impaired waters that do not require TMDLs, an equivalent analysis that determines allocations for small construction sites for the pollutant(s) of concern or that determines that such allocations are not needed to protect water quality based on consideration of existing in-stream concentrations, expected growth in pollutant contributions from all sources, and a margin of safety. For the purpose of this paragraph, the pollutant(s) of concern include sediment or a parameter that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of

any water body that will receive a discharge from the construction activity. The operator must certify to the Director that the construction activity will take place, and storm water discharges will occur, within the drainage area addressed by the TMDL or equivalent analysis.

(ii) Any other construction activity designated by the Director, or in States with approved NPDES programs either the Director or the EPA Regional Administrator, based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants to waters of the United States.

EXHIBIT 1 TO § 122.26(B)(15)—SUMMARY OF COVERAGE OF "STORM WATER DISCHARGES ASSOCIATED WITH SMALL CONSTRUCTION ACTIVITY" UNDER THE NPDES STORM WATER PROGRAM

Automatic Designation: Required Nationwide Coverage.	• Construction activities that result in a land disturbance of equal to or greater than one acre and less than five acres. • Construction activities disturbing less than one acre if part of a larger common plan of development or sale with a planned disturbance of equal to or greater than one acre and less than five ecres. (see § 122.26(b)(15)(i).)
Potential Designation: Optional Evaluation and Designation by the NPDES Permitting Authority or EPA Regional Administrator.	• Construction activities that result in a land disturbance of less than one acre based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants. (see § 122.26(b)(15)(ii).)
Potential Waiver: Waiver from Requirements as Determined by the NPDES Permitting Authority..	Any automatically designated construction activity where the operator certifies: (1) A rainfall erosivity factor of less than five, or (2) That the activity will occur within an area where controls are not needed based on a TMDL or, for non-impaired waters that do not require a TMDL, an equivalent analysis for the pollutant(s) of concern. (see § 122.26(b)(15)(i).)

(16) *Small municipal separate storm sewer system* means all separate storm sewers that are:

(i) Owned or operated by the United States, a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States.

(ii) Not defined as "large" or "medium" municipal separate storm sewer systems pursuant to paragraphs (b)(4) and (b)(7) of this section, or designated under paragraph (a)(1)(v) of this section.

(iii) This term includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as individual buildings.

(17) *Small MS4* means a small municipal separate storm sewer system.

(18) *Municipal separate storm sewer system* means all separate storm sewers that are defined as "large" or "medium" or "small" municipal separate storm sewer systems pursuant to paragraphs (b)(4), (b)(7), and (b)(16) of this section, or designated under paragraph (a)(1)(v) of this section.

(19) *MS4* means a municipal separate storm sewer system.

(20) *Uncontrolled sanitary landfill* means a landill or open dump, whether in operation or closed, that does not meet the requirements for runon or runoff controls established pursuant to subtitle D of the Solid Waste Disposal Act.

(c) *Application requirements for storm water discharges associated with industrial activity and storm water discharges*

associated with small construction activity—(1) *Individual application.* Dischargers of storm water associated with industrial activity and with small construction activity are required to apply for an individual permit or seek coverage under a promulgated storm water general permit. Facilities that are required to obtain an individual permit or any dischage of storm water which the Director is evaluating for designation (see § 124.52(c) of this chapter) under paragraph (a)(1)(v) of this section and is not a municipal storm sewer, shall submit an NPDES application in accordance with the requirements of § 122.21 as modified and supplemented by the provisions of this paragraph.

(i) Except as provided in § 122.26(c)(1)(ii)–(iv), the operator of a storm water discharge associated with industrial activity subject to this section shall provide:

(A) A site map showing topography (or indicating the outline of drainage areas served by the outfall(s) covered in the application if a topographic map is unavailable) of the facility including: each of its drainage and discharge structures; the drainage area of each storm water outfall; paved areas and buildings within the drainage area of each storm water outfall, each past or present area used for outdoor storage or disposal of significant materials, each existing structural control measure to reduce pollutants in storm water runoff, materials loading and access areas, areas where pesticides, herbicides, soil conditioners and fertilizers are applied, each of its hazardous waste treatment, storage or disposal facilities (including each area not required to have a RCRA permit which is used for accumulating hazardous waste under 40 CFR 262.34); each well where fluids from the facility are injected underground; springs, and other surface water bodies which receive storm water discharges from the facility;

(B) An estimate of the area of impervious surfaces (including paved areas and building roofs) and the total area drained by each outfall (within a mile radius of the facility) and a narrative description of the following: Significant materials that in the three years prior to the submittal of this application have been treated, stored or disposed in a manner to allow exposure to storm water; method of treatment, storage or disposal of such materials; materials management practices employed, in the three years prior to the submittal of this application, to minimize contact by these materials with storm water runoff; materials loading and access areas; the location, manner and frequency in which pesticides, herbicides, soil conditioners and fertilizers are applied; the location and a description of existing structural and nonstructural control measures to reduce pollutants in storm water runoff; and a description of the treatment the storm water receives, including the ultimate disposal of any solid or fluid wastes other than by discharge;

(C) A certification that all outfalls that should contain storm water discharges associated with industrial activity have been tested or evaluated for the presence of non-storm water discharges which are not covered by a NPDES permit; tests for such nonstorm water discharges may include smoke tests, fluorometric dye tests, analysis of accurate schematics, as well as other appropriate tests. The certification shall include a description of the method used, the date of any testing, and the on-site drainage points that were directly observed during a test;

(D) Existing information regarding significant leaks or spills of toxic or hazardous pollutants at the facility that have taken place within the three years prior to the submittal of this application;

(E) Quantitative data based on samples collected during storm events and collected in accordance with § 122.21 of this part from all outfalls containing a storm water discharge associated with industrial activity for the following parameters:

(*1*) Any pollutant limited in an effluent guideline to which the facility is subject;

(*2*) Any pollutant listed in the facility's NPDES permit for its process wastewater (if the facility is operating under an existing NPDES permit);

(*3*) Oil and grease, pH, BOD5, COD, TSS, total phosphorus, total Kjeldahl

nitrogen, and nitrate plus nitrite nitrogen;

(*4*) Any information on the discharge required under §122.21(g)(7)(vi) and (vii);

(*5*) Flow measurements or estimates of the flow rate, and the total amount of discharge for the storm event(s) sampled, and the method of flow measurement or estimation; and

(*6*) The date and duration (in hours) of the storm event(s) sampled, rainfall measurements or estimates of the storm event (in inches) which generated the sampled runoff and the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event (in hours);

(F) Operators of a discharge which is composed entirely of storm water are exempt from the requirements of §122.21 (g)(2), (g)(3), (g)(4), (g)(5), (g)(7)(iii), (g)(7)(iv), (g)(7)(v), and (g)(7)(viii); and

(G) Operators of new sources or new discharges (as defined in §122.2 of this part) which are composed in part or entirely of storm water must include estimates for the pollutants or parameters listed in paragraph (c)(1)(i)(E) of this section instead of actual sampling data, along with the source of each estimate. Operators of new sources or new discharges composed in part or entirely of storm water must provide quantitative data for the parameters listed in paragraph (c)(1)(i)(E) of this section within two years after commencement of discharge, unless such data has already been reported under the monitoring requirements of the NPDES permit for the discharge. Operators of a new source or new discharge which is composed entirely of storm water are exempt from the requirements of §122.21 (k)(3)(ii), (k)(3)(iii), and (k)(5).

(ii) An operator of an existing or new storm water discharge that is associated with industrial activity solely under paragraph (b)(14)(x) of this section or is associated with small construction activity solely under paragraph (b)(15) of this section, is exempt from the requirements of §122.21(g) and paragraph (c)(1)(i) of this section. Such operator shall provide a narrative description of:

(A) The location (including a map) and the nature of the construction activity;

(B) The total area of the site and the area of the site that is expected to undergo excavation during the life of the permit;

(C) Proposed measures, including best management practices, to control pollutants in storm water discharges during construction, including a brief description of applicable State and local erosion and sediment control requirements;

(D) Proposed measures to control pollutants in storm water discharges that will occur after construction operations have been completed, including a brief description of applicable State or local erosion and sediment control requirements;

(E) An estimate of the runoff coefficient of the site and the increase in impervious area after the construction addressed in the permit application is completed, the nature of fill material and existing data describing the soil or the quality of the discharge; and

(F) The name of the receiving water.

(iii) The operator of an existing or new discharge composed entirely of storm water from an oil or gas exploration, production, processing, or treatment operation, or transmission facility is not required to submit a permit application in accordance with paragraph (c)(1)(i) of this section, unless the facility:

(A) Has had a discharge of storm water resulting in the discharge of a reportable quantity for which notification is or was required pursuant to 40 CFR 117.21 or 40 CFR 302.6 at anytime since November 16, 1987; or

(B) Has had a discharge of storm water resulting in the discharge of a reportable quantity for which notification is or was required pursuant to 40 CFR 110.6 at any time since November 16, 1987; or

(C) Contributes to a violation of a water quality standard.

(iv) The operator of an existing or new discharge composed entirely of storm water from a mining operation is not required to submit a permit application unless the discharge has come into contact with, any overburden, raw

material, intermediate products, finished product, byproduct or waste products located on the site of such operations.

(v) Applicants shall provide such other information the Director may reasonably require under §122.21(g)(13) of this part to determine whether to issue a permit and may require any facility subject to paragraph (c)(1)(ii) of this section to comply with paragraph (c)(1)(i) of this section.

(2) [Reserved]

(d) *Application requirements for large and medium municipal separate storm sewer discharges.* The operator of a discharge from a large or medium municipal separate storm sewer or a municipal separate storm sewer that is designated by the Director under paragraph (a)(1)(v) of this section, may submit a jurisdiction-wide or system-wide permit application. Where more than one public entity owns or operates a municipal separate storm sewer within a geographic area (including adjacent or interconnected municipal separate storm sewer systems), such operators may be a coapplicant to the same application. Permit applications for discharges from large and medium municipal storm sewers or municipal storm sewers designated under paragraph (a)(1)(v) of this section shall include;

(1) *Part 1.* Part 1 of the application shall consist of;

(i) *General information.* The applicants' name, address, telephone number of contact person, ownership status and status as a State or local government entity.

(ii) *Legal authority.* A description of existing legal authority to control discharges to the municipal separate storm sewer system. When existing legal authority is not sufficient to meet the criteria provided in paragraph (d)(2)(i) of this section, the description shall list additional authorities as will be necessary to meet the criteria and shall include a schedule and commitment to seek such additional authority that will be needed to meet the criteria.

(iii) *Source identification.* (A) A description of the historic use of ordinances, guidance or other controls which limited the discharge of non-storm water discharges to any Publicly Owned Treatment Works serving the same area as the municipal separate storm sewer system.

(B) A USGS 7.5 minute topographic map (or equivalent topographic map with a scale between 1:10,000 and 1:24,000 if cost effective) extending one mile beyond the service boundaries of the municipal storm sewer system covered by the permit application. The following information shall be provided:

(*1*) The location of known municipal storm sewer system outfalls discharging to waters of the United States;

(*2*) A description of the land use activities (e.g. divisions indicating undeveloped, residential, commercial, agricultural and industrial uses) accompanied with estimates of population densities and projected growth for a ten year period within the drainage area served by the separate storm sewer. For each land use type, an estimate of an average runoff coefficient shall be provided;

(*3*) The location and a description of the activities of the facility of each currently operating or closed municipal landfill or other treatment, storage or disposal facility for municipal waste;

(*4*) The location and the permit number of any known discharge to the municipal storm sewer that has been issued a NPDES permit;

(*5*) The location of major structural controls for storm water discharge (retention basins, detention basins, major infiltration devices, etc.); and

(*6*) The identification of publicly owned parks, recreational areas, and other open lands.

(iv) *Discharge characterization.* (A) Monthly mean rain and snow fall estimates (or summary of weather bureau data) and the monthly average number of storm events.

(B) Existing quantitative data describing the volume and quality of discharges from the municipal storm sewer, including a description of the outfalls sampled, sampling procedures and analytical methods used.

(C) A list of water bodies that receive discharges from the municipal separate storm sewer system, including downstream segments, lakes and estuaries,

where pollutants from the system discharges may accumulate and cause water degradation and a brief description of known water quality impacts. At a minimum, the description of impacts shall include a description of whether the water bodies receiving such discharges have been:

(*1*) Assessed and reported in section 305(b) reports submitted by the State, the basis for the assessment (evaluated or monitored), a summary of designated use support and attainment of Clean Water Act (CWA) goals (fishable and swimmable waters), and causes of nonsupport of designated uses;

(*2*) Listed under section 304(l)(1)(A)(i), section 304(l)(1)(A)(ii), or section 304(l)(1)(B) of the CWA that is not expected to meet water quality standards or water quality goals;

(*3*) Listed in State Nonpoint Source Assessments required by section 319(a) of the CWA that, without additional action to control nonpoint sources of pollution, cannot reasonably be expected to attain or maintain water quality standards due to storm sewers, construction, highway maintenance and runoff from municipal landfills and municipal sludge adding significant pollution (or contributing to a violation of water quality standards);

(*4*) Identified and classified according to eutrophic condition of publicly owned lakes listed in State reports required under section 314(a) of the CWA (include the following: A description of those publicly owned lakes for which uses are known to be impaired; a description of procedures, processes and methods to control the discharge of pollutants from municipal separate storm sewers into such lakes; and a description of methods and procedures to restore the quality of such lakes);

(*5*) Areas of concern of the Great Lakes identified by the International Joint Commission;

(*6*) Designated estuaries under the National Estuary Program under section 320 of the CWA;

(*7*) Recognized by the applicant as highly valued or sensitive waters;

(*8*) Defined by the State or U.S. Fish and Wildlife Services's National Wetlands Inventory as wetlands; and

(*9*) Found to have pollutants in bottom sediments, fish tissue or biosurvey data.

(D) *Field screening.* Results of a field screening analysis for illicit connections and illegal dumping for either selected field screening points or major outfalls covered in the permit application. At a minimum, a screening analysis shall include a narrative description, for either each field screening point or major outfall, of visual observations made during dry weather periods. If any flow is observed, two grab samples shall be collected during a 24 hour period with a minimum period of four hours between samples. For all such samples, a narrative description of the color, odor, turbidity, the presence of an oil sheen or surface scum as well as any other relevant observations regarding the potential presence of non-storm water discharges or illegal dumping shall be provided. In addition, a narrative description of the results of a field analysis using suitable methods to estimate pH, total chlorine, total copper, total phenol, and detergents (or surfactants) shall be provided along with a description of the flow rate. Where the field analysis does not involve analytical methods approved under 40 CFR part 136, the applicant shall provide a description of the method used including the name of the manufacturer of the test method along with the range and accuracy of the test. Field screening points shall be either major outfalls or other outfall points (or any other point of access such as manholes) randomly located throughout the storm sewer system by placing a grid over a drainage system map and identifying those cells of the grid which contain a segment of the storm sewer system or major outfall. The field screening points shall he established using the following guidelines and criteria:

(*1*) A grid system consisting of perpendicular north-south and east-west lines spaced ¼ mile apart shall be overlayed on a map of the municipal storm sewer system, creating a series of cells;

(*2*) All cells that contain a segment of the storm sewer system shall be identified; one field screening point shall be

selected in each cell; major outfalls may be used as field screening points;

(*3*) Field screening points should be located downstream of any sources of suspected illegal or illicit activity;

(*4*) Field screening points shall be located to the degree practicable at the farthest manhole or other accessible location downstream in the system, within each cell; however, safety of personnel and accessibility of the location should be considered in making this determination;

(*5*) Hydrological conditions; total drainage area of the site; population density of the site; traffic density; age of the structures or buildings in the area; history of the area; and land use types;

(*6*) For medium municipal separate storm sewer systems, no more than 250 cells need to have identified field screening points; in large municipal separate storm sewer systems, no more than 500 cells need to have identified field screening points; cells established by the grid that contain no storm sewer segments will be eliminated from consideration; if fewer than 250 cells in medium municipal sewers are created, and fewer than 500 in large systems are created by the overlay on the municipal sewer map, then all those cells which contain a segment of the sewer system shall be subject to field screening (unless access to the separate storm sewer system is impossible); and

(*7*) Large or medium municipal separate storm sewer systems which are unable to utilize the procedures described in paragraphs (d)(1)(iv)(D) (*1*) through (*6*) of this section, because a sufficiently detailed map of the separate storm sewer systems is unavailable, shall field screen no more than 500 or 250 major outfalls respectively (or all major outfalls in the system, if less); in such circumstances, the applicant shall establish a grid system consisting of north-south and east-west lines spaced ¼ mile apart as an overlay to the boundaries of the municipal storm sewer system, thereby creating a series of cells; the applicant will then select major outfalls in as many cells as possible until at least 500 major outfalls (large municipalities) or 250 major outfalls (medium municipalities) are selected; a field screening analysis shall be undertaken at these major outfalls.

(E) *Characterization plan.* Information and a proposed program to meet the requirements of paragraph (d)(2)(iii) of this section. Such description shall include: the location of outfalls or field screening points appropriate for representative data collection under paragraph (d)(2)(iii)(A) of this section, a description of why the outfall or field screening point is representative, the seasons during which sampling is intended, a description of the sampling equipment. The proposed location of outfalls or field screening points for such sampling should reflect water quality concerns (*see* paragraph (d)(1)(iv)(C) of this section) to the extent practicable.

(v) *Management programs.* (A) A description of the existing management programs to control pollutants from the municipal separate storm sewer system. The description shall provide information on existing structural and source controls, including operation and maintenance measures for structural controls, that are currently being implemented. Such controls may include, but are not limited to: Procedures to control pollution resulting from construction activities; floodplain management controls; wetland protection measures; best management practices for new subdivisions; and emergency spill response programs. The description may address controls established under State law as well as local requirements.

(B) A description of the existing program to identify illicit connections to the municipal storm sewer system. The description should include inspection procedures and methods for detecting and preventing illicit discharges, and describe areas where this program has been implemented.

(vi) *Fiscal resources.* (A) A description of the financial resources currently available to the municipality to complete part 2 of the permit application. A description of the municipality's budget for existing storm water programs, including an overview of the municipality's financial resources and budget, including overall indebtedness and assets, and sources of funds for storm water programs.

(2) *Part 2.* Part 2 of the application shall consist of:

(i) *Adequate legal authority.* A demonstration that the applicant can operate pursuant to legal authority established by statute, ordinance or series of contracts which authorizes or enables the applicant at a minimum to:

(A) Control through ordinance, permit, contract, order or similar means, the contribution of pollutants to the municipal storm sewer by storm water discharges associated with industrial activity and the quality of storm water discharged from sites of industrial activity;

(B) Prohibit through ordinance, order or similar means, illicit discharges to the municipal separate storm sewer;

(C) Control through ordinance, order or similar means the discharge to a municipal separate storm sewer of spills, dumping or disposal of materials other than storm water;

(D) Control through interagency agreements among coapplicants the contribution of pollutants from one portion of the municipal system to another portion of the municipal system;

(E) Require compliance with conditions in ordinances, permits, contracts or orders; and

(F) Carry out all inspection, surveillance and monitoring procedures necessary to determine compliance and noncompliance with permit conditions including the prohibition on illicit discharges to the municipal separate storm sewer.

(ii) *Source identification.* The location of any major outfall that discharges to waters of the United States that was not reported under paragraph (d)(1)(iii)(B)(*1*) of this section. Provide an inventory, organized by watershed of the name and address, and a description (such as SIC codes) which best reflects the principal products or services provided by each facility which may discharge, to the municipal separate storm sewer, storm water associated with industrial activity;

(iii) *Characterization data.* When "quantitative data" for a pollutant are required under paragraph (d)(2)(iii)(A)(*3*) of this section, the applicant must collect a sample of effluent in accordance with 40 CFR 122.21(g)(7) and analyze it for the pollutant in accordance with analytical methods approved under part 136 of this chapter. When no analytical method is approved the applicant may use any suitable method but must provide a description of the method. The applicant must provide information characterizing the quality and quantity of discharges covered in the permit application, including:

(A) Quantitative data from representative outfalls designated by the Director (based on information received in part 1 of the application, the Director shall designate between five and ten outfalls or field screening points as representative of the commercial, residential and industrial land use activities of the drainage area contributing to the system or, where there are less than five outfalls covered in the application, the Director shall designate all outfalls) developed as follows:

(*1*) For each outfall or field screening point designated under this subparagraph, samples shall be collected of storm water discharges from three storm events occurring at least one month apart in accordance with the requirements at §122.21(g)(7) (the Director may allow exemptions to sampling three storm events when climatic conditions create good cause for such exemptions);

(*2*) A narrative description shall be provided of the date and duration of the storm event(s) sampled, rainfall estimates of the storm event which generated the sampled discharge and the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event;

(*3*) For samples collected and described under paragraphs (d)(2)(iii)(A)(*1*) and (A)(*2*) of this section, quantitative data shall be provided for: the organic pollutants listed in Table II; the pollutants listed in Table III (toxic metals, cyanide, and total phenols) of appendix D of 40 CFR part 122, and for the following pollutants:

Total suspended solids (TSS)
Total dissolved solids (TDS)
COD
BOD_5
Oil and grease
Fecal coliform
Fecal streptococcus
pH

Total Kjeldahl nitrogen
Nitrate plus nitrite
Dissolved phosphorus
Total ammonia plus organic nitrogen
Total phosphorus

(*4*) Additional limited quantitative data required by the Director for determining permit conditions (the Director may require that quantitative data shall be provided for additional parameters, and may establish sampling conditions such as the location, season of sample collection, form of precipitation (snow melt, rainfall) and other parameters necessary to insure representativeness);

(B) Estimates of the annual pollutant load of the cumulative discharges to waters of the United States from all identified municipal outfalls and the event mean concentration of the cumulative discharges to waters of the United States from all identified municipal outfalls during a storm event (as described under §122.21(c)(7)) for BOD_5, COD, TSS, dissolved solids, total nitrogen, total ammonia plus organic nitrogen, total phosphorus, dissolved phosphorus, cadmium, copper, lead, and zinc. Estimates shall be accompanied hy a description of the procedures for estimating constituent loads and concentrations, including any modelling, data analysis, and calculation methods;

(C) A proposed schedule to provide estimates for each major outfall identified in either paragraph (d)(2)(ii) or (d)(1)(iii)(B)(*1*) of this section of the seasonal pollutant load and of the event mean concentration of a representative storm for any constituent detected in any sample required under paragraph (d)(2)(iii)(A) of this section; and

(D) A proposed monitoring program for representative data collection for the term of the permit that describes the location of outfalls or field screening points to be sampled (or the location of instream stations), why the location is representative, the frequency of sampling, parameters to be sampled, and a description of sampling equipment.

(iv) *Proposed management program.* A proposed management program covers the duration of the permit. It shall include a comprehensive planning process which involves public participation and where necessary intergovernmental coordination, to reduce the discharge of pollutants to the maximum extent practicable using management practices, control techniques and system, design and engineering methods, and such other provisions which are appropriate. The program shall also include a description of staff and equipment available to implement the program. Separate proposed programs may be submitted by each coapplicant. Proposed programs may impose controls on a systemwide basis, a watershed basis, a jurisdiction basis, or on individual outfalls. Proposed programs will be considered by the Director when developing permit conditions to reduce pollutants in discharges to the maximum extent practicable. Proposed management programs shall describe priorities for implementing controls. Such programs shall be based on:

(A) A description of structural and source control measures to reduce pollutants from runoff from commercial and residential areas that are discharged from the municipal storm sewer system that are to be implemented during the life of the permit, accompanied with an estimate of the expected reduction of pollutant loads and a proposed schedule for implementing such controls. At a minimum, the description shall include:

(*1*) A description of maintenance activities and a maintenance schedule for structural controls to reduce pollutants (including floatables) in discharges from municipal separate storm sewers;

(*2*) A description of planning procedures including a comprehensive master plan to develop, implement and enforce controls to reduce the discharge of pollutants from municipal separate storm sewers which receive discharges from areas of new development and significant redevelopment. Such plan shall address controls to reduce pollutants in discharges from municipal separate storm sewers after construction is completed. (Controls to reduce pollutants in discharges from municipal separate storm sewers containing construction site runoff are addressed in paragraph (d)(2)(iv)(D) of this section;

(3) A description of practices for operating and maintaining public streets, roads and highways and procedures for reducing the impact on receiving waters of discharges from municipal storm sewer systems, including pollutants discharged as a result of deicing activities;

(4) A description of procedures to assure that flood management projects assess the impacts on the water quality of receiving water bodies and that existing structural flood control devices have been evaluated to determine if retrofitting the device to provide additional pollutant removal from storm water is feasible;

(5) A description of a program to monitor pollutants in runoff from operating or closed municipal landfills or other treatment, storage or disposal facilities for municipal waste, which shall identify priorities and procedures for inspections and establishing and implementing control measures for such discharges (this program can be coordinated with the program developed under paragraph (d)(2)(iv)(C) of this section); and

(6) A description of a program to reduce to the maximum extent practicable, pollutants in discharges from municipal separate storm sewers associated with the application of pesticides, herbicides and fertilizer which will include, as appropriate, controls such as educational activities, permits, certifications and other measures for commercial applicators and distributors, and controls for application in public right-of-ways and at municipal facilities.

(B) A description of a program, including a schedule, to detect and remove (or require the discharger to the municipal separate storm sewer to obtain a separate NPDES permit for) illicit discharges and improper disposal into the storm sewer. The proposed program shall include:

(1) A description of a program, including inspections, to implement and enforce an ordinance, orders or similar means to prevent illicit discharges to the municipal separate storm sewer system; this program description shall address all types of illicit discharges, however the following category of non-storm water discharges or flows shall be addressed where such discharges are identified by the municipality as sources of pollutants to waters of the United States: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)) to separate storm sewers, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water (program descriptions shall address discharges or flows from fire fighting only where such discharges or flows are identified as significant sources of pollutants to waters of the United States);

(2) A description of procedures to conduct on-going field screening activities during the life of the permit, including areas or locations that will be evaluated by such field screens;

(3) A description of procedures to be followed to investigate portions of the separate storm sewer system that, based on the results of the field screen, or other appropriate information, indicate a reasonable potential of containing illicit discharges or other sources of non-storm water (such procedures may include: sampling procedures for constituents such as fecal coliform, fecal streptococcus, surfactants (MBAS), residual chlorine, fluorides and potassium; testing with fluorometric dyes; or conducting in storm sewer inspections where safety and other considerations allow. Such description shall include the location of storm sewers that have been identified for such evaluation);

(4) A description of procedures to prevent, contain, and respond to spills that may discharge into the municipal separate storm sewer;

(5) A description of a program to promote, publicize, and facilitate public reporting of the presence of illicit discharges or water quality impacts associated with discharges from municipal separate storm sewers;

(*6*) A description of educational activities, public information activities, and other appropriate activities to facilitate the proper management and disposal of used oil and toxic materials; and

(*7*) A description of controls to limit infiltration of seepage from municipal sanitary sewers to municipal separate storm sewer systems where necessary;

(C) A description of a program to monitor and control pollutants in storm water discharges to municipal systems from municipal landfills, hazardous waste treatment, disposal and recovery facilities, industrial facilities that are subject to section 313 of title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA), and industrial facilities that the municipal permit applicant determines are contributing a substantial pollutant loading to the municipal storm sewer system. The program shall:

(*1*) Identify priorities and procedures for inspections and establishing and implementing control measures for such discharges;

(*2*) Describe a monitoring program for storm water discharges associated with the industrial facilities identified in paragraph (d)(2)(iv)(C) of this section, to be implemented during the term of the permit, including the submission of quantitative data on the following constituents: any pollutants limited in effluent guidelines subcategories, where applicable; any pollutant listed in an existing NPDES permit for a facility; oil and grease, COD, pH, BOD_5, TSS, total phosphorus, total Kjeldahl nitrogen, nitrate plus nitrite nitrogen, and any information on discharges required under §122.21(g)(7) (vi) and (vii).

(D) A description of a program to implement and maintain structural and non-structural best management practices to reduce pollutants in storm water runoff from construction sites to the municipal storm sewer system, which shall include:

(*1*) A description of procedures for site planning which incorporate consideration of potential water quality impacts;

(*2*) A description of requirements for nonstructural and structural best management practices;

(*3*) A description of procedures for identifying priorities for inspecting sites and enforcing control measures which consider the nature of the construction activity, topography, and the characteristics of soils and receiving water quality; and

(*4*) A description of appropriate educational and training measures for construction site operators.

(v) *Assessment of controls.* Estimated reductions in loadings of pollutants from discharges of municipal storm sewer constituents from municipal storm sewer systems expected as the result of the municipal storm water quality management program. The assessment shall also identify known impacts of storm water controls on ground water.

(vi) *Fiscal analysis.* For each fiscal year to be covered by the permit, a fiscal analysis of the necessary capital and operation and maintenance expenditures necessary to accomplish the activities of the programs under paragraphs (d)(2) (iii) and (iv) of this section. Such analysis shall include a description of the source of funds that are proposed to meet the necessary expenditures, including legal restrictions on the use of such funds.

(vii) Where more than one legal entity submits an application, the application shall contain a description of the roles and responsibilities of each legal entity and procedures to ensure effective coordination.

(viii) Where requirements under paragraph (d)(1)(iv)(E), (d)(2)(ii), (d)(2)(iii)(B) and (d)(2)(iv) of this section are not practicable or are not applicable, the Director may exclude any operator of a discharge from a municipal separate storm sewer which is designated under paragraph (a)(1)(v), (b)(4)(ii) or (b)(7)(ii) of this section from such requirements. The Director shall not exclude the operator of a discharge from a municipal separate storm sewer identified in appendix F, G, H or I of part 122, from any of the permit application requirements under this paragraph except where authorized under this section.

(e) *Application deadlines.* Any operator of a point source required to obtain a permit under this section that

does not have an effective NPDES permit authorizing discharges from its storm water outfalls shall submit an application in accordance with the following deadlines:

(1) *Storm water discharges associated with industrial activity.* (i) Except as provided in paragraph (e)(1)(ii) of this section, for any storm water discharge associated with industrial activity identified in paragraphs (b)(14)(i) through (xi) of this section, that is not part of a group application as described in paragraph (c)(2) of this section or that is not authorized by a storm water general permit, a permit application made pursuant to paragraph (c) of this section must be submitted to the Director by October 1, 1992;

(ii) For any storm water discharge associated with industrial activity from a facility that is owned or operated by a municipality with a population of less than 100,000 that is not authorized by a general or individual permit, other than an airport, powerplant, or uncontrolled sanitary landfill, the permit application must be submitted to the Director by March 10, 2003.

(2) For any group application submitted in accordance with paragraph (c)(2) of this section:

(i) *Part 1.* (A) Except as provided in paragraph (e)(2)(i)(B) of this section, part 1 of the application shall be submitted to the Director, Office of Wastewater Enforcement and Compliance by September 30, 1991;

(B) Any municipality with a population of less than 250,000 shall not be required to submit a part 1 application before May 18, 1992.

(C) For any storm water discharge associated with industrial activity from a facility that is owned or operated by a municipality with a population of less than 100,000 other than an airport, powerplant, or uncontrolled sanitary landfill, permit applications requirements are reserved.

(ii) Based on information in the part 1 application, the Director will approve or deny the members in the group application within 60 days after receiving part 1 of the group application.

(iii) *Part 2.* (A) Except as provided in paragraph (e)(2)(iii)(B) of this section, part 2 of the application shall be submitted to the Director, Office of Wastewater Enforcement and Compliance by October 1, 1992;

(B) Any municipality with a population of less than 250,000 shall not be required to submit a part 1 application before May 17, 1993.

(C) For any storm water discharge associated with industrial activity from a facility that is owned or operated by a municipality with a population of less than 100,000 other than an airport, powerplant, or uncontrolled sanitary landfill, permit applications requirements are reserved.

(iv) *Rejected facilities.* (A) Except as provided in paragraph (e)(2)(iv)(B) of this section, facilities that are rejected as members of the group shall submit an individual application (or obtain coverage under an applicable general permit) no later than 12 montbs after the date of receipt of the notice of rejection or October 1, 1992, whichever comes first.

(B) Facilities that are owned or operated by a municipality and that are rejected as members of part 1 group application shall submit an individual application no later than 180 days after the date of receipt of the notice of rejection or October 1, 1992, whichever is later.

(v) A facility listed under paragraph (b)(14) (i)–(xi) of this section may add on to a group application submitted in accordance with paragraph (e)(2)(i) of this section at the discretion of the Office of Water Enforcement and Permits, and only upon a showing of good cause by the facility and the group applicant; the request for the addition of the facility shall be made no later than February 18, 1992; the addition of the facility shall not cause the percentage of the facilities that are required to submit quantitative data to be less than 10%, unless there are over 100 facilities in the group that are submitting quantitative data; approval to become part of group application must be obtained from the group or the trade association representing the individual facilities.

(3) For any discharge from a large municipal separate storm sewer system;

(i) Part 1 of the application shall be submitted to the Director by November 18, 1991;

(ii) Based on information received in the part 1 application the Director will approve or deny a sampling plan under paragraph (d)(1)(iv)(E) of this section within 90 days after receiving the part 1 application;

(iii) Part 2 of the application shall be submitted to the Director by November 16, 1992.

(4) For any discharge from a medium municipal separate storm sewer system;

(i) Part 1 of the application shall be submitted to the Director by May 18, 1992.

(ii) Based on information received in the part 1 application the Director will approve or deny a sampling plan under paragraph (d)(1)(iv)(E) of this section within 90 days after receiving the part 1 application.

(iii) Part 2 of the application shall be submitted to the Director by May 17, 1993.

(5) A permit application shall be submitted to the Director within 180 days of notice, unless permission for a later date is granted by the Director (see §124.52(c) of this chapter), for:

(i) A storm water discharge that the Director, or in States with approved NPDES programs, either the Director or the EPA Regional Administrator, determines that the discharge contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the United States (see paragraphs (a)(1)(v) and (b)(15)(ii) of this section);

(ii) A storm water discharge subject to paragraph (c)(1)(v) of this section.

(6) Facilities with existing NPDES permits for storm water discharges associated with industrial activity shall maintain existing permits. Facilities with permits for storm water discharges associated with industrial activity which expire on or after May 18, 1992 shall submit a new application in accordance with the requirements of 40 CFR 122.21 and 40 CFR 122.26(c) (Form 1, Form 2F, and other applicable Forms) 180 days before the expiration of such permits.

(7) The Director shall issue or deny permits for discharges composed entirely of storm water under this section in accordance with the following schedule:

(i)(A) Except as provided in paragraph (e)(7)(i)(B) of this section, the Director shall issue or deny permits for storm water discharges associated with industrial activity no later than October 1, 1993, or, for new sources or existing sources which fail to submit a complete permit application by October 1, 1992, one year after receipt of a complete permit application;

(B) For any municipality with a population of less than 250,000 which submits a timely Part I group application under paragraph (e)(2)(i)(B) of this section, the Director shall issue or deny permits for storm water discharges associated with industrial activity no later than May 17, 1994, or, for any such municipality which fails to submit a complete Part II group permit application by May 17, 1993, one year after receipt of a complete permit application;

(ii) The Director shall issue or deny permits for large municipal separate storm sewer systems no later than November 16, 1993, or, for new sources or existing sources which fail to submit a complete permit application by November 16, 1992, one year after receipt of a complete permit application;

(iii) The Director shall issue or deny permits for medium municipal separate storm sewer systems no later than May 17, 1994, or, for new sources or existing sources which fail to submit a complete permit application by May 17, 1993, one year after receipt of a complete permit application.

(8) For any storm water discharge associated with small construction activities identified in paragraph (b)(15)(i) of this section, see §122.21(c)(1). Discharges from these sources require permit authorization by March 10, 2003, unless designated for coverage before then.

(9) For any discharge from a regulated small MS4, the permit application made under §122.33 must be submitted to the Director by:

(i) March 10, 2003 if designated under §122.32(a)(1) unless your MS4 serves a jurisdiction with a population under 10,000 and the NPDES permitting authority has established a phasing

schedule under §123.35(d)(3) (see §122.33(c)(1)); or

(ii) Within 180 days of notice, unless the NPDES permitting authority grants a later date, if designated under §122.32(a)(2) (see §122.33(c)(2)).

(f) *Petitions.* (1) Any operator of a municipal separate storm sewer system may petition the Director to require a separate NPDES permit (or a permit issued under an approved NPDES State program) for any discharge into the municipal separate storm sewer system.

(2) Any person may petition the Director to require a NPDES permit for a discharge which is composed entirely of storm water which contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the United States.

(3) The owner or operator of a municipal separate storm sewer system may petition the Director to reduce the Census estimates of the population served by such separate system to account for storm water discharged to combined sewers as defined by 40 CFR 35.2005(b)(11) that is treated in a publicly owned treatment works. In municipalities in which combined sewers are operated, the Census estimates of population may be reduced proportional to the fraction, based on estimated lengths, of the length of combined sewers over the sum of the length of combined sewers and municipal separate storm sewers where an applicant has submitted the NPDES permit number associated with each discharge point and a map indicating areas served by combined sewers and the location of any combined sewer overflow discharge point.

(4) Any person may petition the Director for the designation of a large, medium, or small municipal separate storm sewer system as defined by paragraph (b)(4)(iv), (b)(7)(iv), or (b)(16) of this section.

(5) The Director shall make a final determination on any petition received under this section within 90 days after receiving the petition with the exception of petitions to designate a small MS4 in which case the Director shall make a final determination on the petition within 180 days after its receipt.

(g) *Conditional exclusion for "no exposure" of industrial activities and materials to storm water.* Discharges composed entirely of storm water are not storm water discharges associated with industrial activity if there is "no exposure" of industrial materials and activities to rain, snow, snowmelt and/or runoff, and the discharger satisfies the conditions in paragraphs (g)(1) through (g)(4) of this section. "No exposure" means that all industrial materials and activities are protected by a storm resistant shelter to prevent exposure to rain, snow, snowmelt, and/or runoff. Industrial materials or activities include, but are not limited to, material handling equipment or activities, industrial machinery, raw materials, intermediate products, by-products, final products, or waste products. Material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product or waste product.

(1) *Qualification.* To qualify for this exclusion, the operator of the discharge must:

(i) Provide a storm resistant shelter to protect industrial materials and activities from exposure to rain, snow, snow melt, and runoff;

(ii) Complete and sign (according to §122.22) a certification that there are no discharges of storm water contaminated by exposure to industrial materials and activities from the entire facility, except as provided in paragraph (g)(2) of this section;

(iii) Submit the signed certification to the NPDES permitting authority once every five years;

(iv) Allow the Director to inspect the facility to determine compliance with the "no exposure" conditions;

(v) Allow the Director to make any "no exposure" inspection reports available to the public upon request; and

(vi) For facilities that discharge through an MS4, upon request, submit a copy of the certification of "no exposure" to the MS4 operator, as well as allow inspection and public reporting by the MS4 operator.

(2) *Industrial materials and activities not requiring storm resistant shelter.* To qualify for this exclusion, storm resistant shelter is not required for:

(i) Drums, barrels, tanks, and similar containers that are tightly sealed, provided those containers are not deteriorated and do not leak ("Sealed" means banded or otherwise secured and without operational taps or valves);

(ii) Adequately maintained vehicles used in material handling; and

(iii) Final products, other than products that would be mobilized in storm water discharge (e.g., rock salt).

(3) *Limitations.* (i) Storm water discharges from construction activities identified in paragraphs (b)(14)(x) and (b)(15) are not eligible for this conditional exclusion.

(ii) This conditional exclusion from the requirement for an NPDES permit is available on a facility-wide basis only, not for individual outfalls. If a facility has some discharges of storm water that would otherwise be "no exposure" discharges, individual permit requirements should be adjusted accordingly.

(iii) If circumstances change and industrial materials or activities become exposed to rain, snow, snow melt, and/or runoff, the conditions for this exclusion no longer apply. In such cases, the discharge becomes subject to enforcement for un-permitted discharge. Any conditionally exempt discharger who anticipates changes in circumstances should apply for and obtain permit authorization prior to the change of circumstances.

(iv) Notwithstanding the provisions of this paragraph, the NPDES permitting authority retains the authority to require permit authorization (and deny this exclusion) upon making a determination that the discharge causes, has a reasonable potential to cause, or contributes to an instream excursion above an applicable water quality standard, including designated uses.

(4) *Certification.* The no exposure certification must require the submission of the following information, at a minimum, to aid the NPDES permitting authority in determining if the facility qualifies for the no exposure exclusion:

(i) The legal name, address and phone number of the discharger (see §122.21(b));

(ii) The facility name and address, the county name and the latitude and longitude where the facility is located;

(iii) The certification must indicate that none of the following materials or activities are, or will be in the foreseeable future, exposed to precipitation:

(A) Using, storing or cleaning industrial machinery or equipment, and areas where residuals from using, storing or cleaning industrial machinery or equipment remain and are exposed to storm water;

(B) Materials or residuals on the ground or in storm water inlets from spills/leaks;

(C) Materials or products from past industrial activity;

(D) Material handling equipment (except adequately maintained vehicles);

(E) Materials or products during loading/unloading or transporting activities;

(F) Materials or products stored outdoors (except final products intended for outside use, e.g., new cars, where exposure to storm water does not result in the discharge of pollutants);

(G) Materials contained in open, deteriorated or leaking storage drums, barrels, tanks, and similar containers;

(H) Materials or products handled/stored on roads or railways owned or maintained by the discharger;

(I) Waste material (except waste in covered, non-leaking containers, e.g., dumpsters);

(J) Application or disposal of process wastewater (unless otherwise permitted); and

(K) Particulate matter or visible deposits of residuals from roof stacks/vents not otherwise regulated, i.e., under an air quality control permit, and evident in the storm water outflow;

(iv) All "no exposure" certifications must include the following certification statement, and be signed in accordance with the signatory requirements of §122.22: "I certify under penalty of law that I have read and understand the eligibility requirements for claiming a condition of "no exposure" and obtaining an exclusion from NPDES storm water permitting; and that there are no discharges of storm water contaminated by exposure to industrial activities or materials from the industrial facility identified in this document (except as allowed under

paragraph (g)(2)) of this section. I understand that I am obligated to submit a no exposure certification form once every five years to the NPDES permitting authority and, if requested, to the operator of the local MS4 into which this facility discharges (where applicable). I understand that I must allow the NPDES permitting authority, or MS4 operator where the discharge is into the local MS4, to perform inspections to confirm the condition of no exposure and to make such inspection reports publicly available upon request. I understand that I must obtain coverage under an NPDES permit prior to any point source discharge of storm water from the facility. I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based upon my inquiry of the person or persons who manage the system, or those persons directly involved in gathering the information, the information submitted is to the best of my knowledge and belief true, accurate and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

[55 FR 48063, Nov. 16, 1990]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 122.26, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at *www.fdsys.gov*.

§ 122.27 Silvicultural activities (applicable to State NPDES programs, see § 123.25).

(a) *Permit requirement.* Silvicultural point sources, as defined in this section, as point sources subject to the NPDES permit program.

(b) *Definitions.* (1) *Silvicultural point source* means any discernible, confined and discrete conveyance related to rock crushing, gravel washing, log sorting, or log storage facilities which are operated in connection with silvicultural activities and from which pollutants are discharged into waters of the United States. The term does not include non-point source silvicultural activities such as nursery operations, site preparation, reforestation and subsequent cultural treatment, thinning, prescribed burning, pest and fire control, harvesting operations, surface drainage, or road construction and maintenance from which there is natural runoff. However, some of these activities (such as stream crossing for roads) may involve point source discharges of dredged or fill material which may require a CWA section 404 permit (See 33 CFR 209.120 and part 233).

(2) *Rock crushing and gravel washing facilities* means facilities which process crushed and broken stone, gravel, and riprap (See 40 CFR part 436, subpart B, including the effluent limitations guidelines).

(3) *Log sorting and log storage facilities* means facilities whose discharges result from the holding of unprocessed wood, for example, logs or roundwood with bark or after removal of bark held in self-contained bodies of water (mill ponds or log ponds) or stored on land where water is applied intentionally on the logs (wet decking). (See 40 CFR part 429, subpart I, including the effluent limitations guidelines).

§ 122.28 General permits (applicable to State NPDES programs, see § 123.25).

(a) *Coverage.* The Director may issue a general permit in accordance with the following:

(1) *Area.* The general permit shall be written to cover one or more categories or subcategories of discharges or sludge use or disposal practices or facilities described in the permit under paragraph (a)(2)(ii) of this section, except those covered by individual permits, within a geographic area. The area should correspond to existing geographic or political boundaries such as:

(i) Designated planning areas under sections 208 and 303 of CWA;

(ii) Sewer districts or sewer authorities;

(iii) City, county, or State political boundaries;

(iv) State highway systems;

(v) Standard metropolitan statistical areas as defined by the Office of Management and Budget;

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

(D) Changes to site-specific components of the CAFO's nutrient management plan, where such changes are likely to increase the risk of nitrogen and phosphorus transport to waters of the U.S.

(iv) *For EPA-issued permits only.* Upon incorporation of the revised terms of the nutrient management plan into the permit, 40 CFR 124.19 specifies procedures for appeal of the permit decision. In addition to the procedures specified at 40 CFR 124.19, a person must have submitted comments or participated in the public hearing in order to appeal the permit decision.

[48 FR 14153, Apr. 1, 1983, as amended at 49 FR 38049, Sept. 26, 1984; 50 FR 4514, Jan. 31, 1985; 55 FR 48073, Nov. 16, 1990; 57 FR 60448, Dec. 18, 1992; 68 FR 7268, Feb. 12, 2003; 71 FR 6984, Feb. 10, 2006; 72 FR 40250, July 24, 2007; 73 FR 70483, Nov. 20, 2008]

§ 122.43 Establishing permit conditions (applicable to State programs, see § 123.25).

(a) In addition to conditions required in all permits (§§ 122.41 and 122.42), the Director shall establish conditions, as required on a case-by-case basis, to provide for and assure compliance with all applicable requirements of CWA and regulations. These shall include conditions under §§ 122.46 (duration of permits), 122.47(a) (schedules of compliance), 122.48 (monitoring), and for EPA permits only 122.47(b) (alternates schedule of compliance) and 122.49 (considerations under Federal law).

(b)(1) For a State issued permit, an applicable requirement is a State statutory or regulatory requirement which takes effect prior to final administrative disposition of a permit. For a permit issued by EPA, an applicable requirement is a statutory or regulatory requirement (including any interim final regulation) which takes effect prior to the issuance of the permit. Section 124.14 (reopening of comment period) provides a means for reopening EPA permit proceedings at the discretion of the Director where new requirements become effective during the permitting process and are of sufficient magnitude to make additional proceedings desirable. For State and EPA administered programs, an applicable requirement is also any requirement which takes effect prior to the modification or revocation and reissuance of a permit, to the extent allowed in § 122.62.

(2) New or reissued permits, and to the extent allowed under § 122.62 modified or revoked and reissued permits, shall incorporate each of the applicable requirements referenced in §§ 122.44 and 122.45.

(c) *Incorporation.* All permit conditions shall be incorporated either expressly or by reference. If incorporated by reference, a specific citation to the applicable regulations or requirements must be given in the permit.

[48 FR 14153, Apr. 1, 1983, as amended at 65 FR 30908, May 15, 2000]

§ 122.44 Establishing limitations, standards, and other permit conditions (applicable to State NPDES programs, see § 123.25).

In addition to the conditions established under § 122.43(a), each NPDES permit shall include conditions meeting the following requirements when applicable.

(a)(1) *Technology-based effluent limitations and standards* based on: effluent limitations and standards promulgated under section 301 of the CWA, or new source performance standards promulgated under section 306 of CWA, on case-by-case effluent limitations determined under section 402(a)(1) of CWA, or a combination of the three, in accordance with § 125.3 of this chapter. For new sources or new dischargers, these technology based limitations and standards are subject to the provisions of § 122.29(d) (protection period).

(2) *Monitoring waivers for certain guideline-listed pollutants.* (i) The Director may authorize a discharger subject to technology-based effluent limitations guidelines and standards in an NPDES permit to forego sampling of a pollutant found at 40 CFR Subchapter N of this chapter if the discharger has demonstrated through sampling and other technical factors that the pollutant is not present in the discharge or is present only at background levels from intake water and without any increase in the pollutant due to activities of the discharger.

(ii) This waiver is good only for the term of the permit and is not available

during the term of the first permit issued to a discharger.

(iii) Any request for this waiver must be submitted when applying for a reissued permit or modification of a reissued permit. The request must demonstrate through sampling or other technical information, including information generated during an earlier permit term that the pollutant is not present in the discharge or is present only at background levels from intake water and without any increase in the pollutant due to activities of the discharger.

(iv) Any grant of the monitoring waiver must be included in the permit as an express permit condition and the reasons supporting the grant must be documented in the permit's fact sheet or statement of basis.

(v) This provision does not supersede certification processes and requirements already established in existing effluent limitations guidelines and standards.

(b)(1) *Other effluent limitations and standards* under sections 301, 302, 303, 307, 318 and 405 of CWA. If any applicable toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under section 307(a) of CWA for a toxic pollutant and that standard or prohibition is more stringent than any limitation on the pollutant in the permit, the Director shall institute proceedings under these regulations to modify or revoke and reissue the permit to conform to the toxic effluent standard or prohibition. See also § 122.41(a).

(2) *Standards for sewage sludge use or disposal* under section 405(d) of the CWA unless those standards have been included in a permit issued under the appropriate provisions of subtitle C of the Solid Waste Disposal Act, Part C of Safe Drinking Water Act, the Marine Protection, Research, and Sanctuaries Act of 1972, or the Clean Air Act, or under State permit programs approved by the Administrator. When there are no applicable standards for sewage sludge use or disposal, the permit may include requirements developed on a case-by-case basis to protect public health and the environment from any adverse effects which may occur from toxic pollutants in sewage sludge. If any applicable standard for sewage sludge use or disposal is promulgated under section 405(d) of the CWA and that standard is more stringent than any limitation on the pollutant or practice in the permit, the Director may initiate proceedings under these regulations to modify or revoke and reissue the permit to conform to the standard for sewage sludge use or disposal.

(3) Requirements applicable to cooling water intake structures under section 316(b) of the CWA, in accordance with part 125, subparts I, J, and N of this chapter.

(c) *Reopener clause:* For any permit issued to a treatment works treating domestic sewage (including "sludge-only facilities"), the Director shall include a reopener clause to incorporate any applicable standard for sewage sludge use or disposal promulgated under section 405(d) of the CWA. The Director may promptly modify or revoke and reissue any permit containing the reopener clause required by this paragraph if the standard for sewage sludge use or disposal is more stringent than any requirements for sludge use or disposal in the permit, or controls a pollutant or practice not limited in the permit.

(d) *Water quality standards and State requirements:* any requirements in addition to or more stringent than promulgated effluent limitations guidelines or standards under sections 301, 304, 306, 307, 318 and 405 of CWA necessary to:

(1) Achieve water quality standards established under section 303 of the CWA, including State narrative criteria for water quality.

(i) Limitations must control all pollutants or pollutant parameters (either conventional, nonconventional, or toxic pollutants) which the Director determines are or may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any State water quality standard, including State narrative criteria for water quality.

(ii) When determining whether a discharge causes, has the reasonable potential to cause, or contributes to an in-stream excursion above a narrative

or numeric criteria within a State water quality standard, the permitting authority shall use procedures which account for existing controls on point and nonpoint sources of pollution, the variability of the pollutant or pollutant parameter in the effluent, the sensitivity of the species to toxicity testing (when evaluating whole effluent toxicity), and where appropriate, the dilution of the effluent in the receiving water.

(iii) When the permitting authority determines, using the procedures in paragraph (d)(1)(ii) of this section, that a discharge causes, has the reasonable potential to cause, or contributes to an in-stream excursion above the allowable ambient concentration of a State numeric criteria within a State water quality standard for an individual pollutant, the permit must contain effluent limits for that pollutant.

(iv) When the permitting authority determines, using the procedures in paragraph (d)(1)(ii) of this section, that a discharge causes, has the reasonable potential to cause, or contributes to an in-stream excursion above the numeric criterion for whole effluent toxicity, the permit must contain effluent limits for whole effluent toxicity.

(v) Except as provided in this subparagraph, when the permitting authority determines, using the procedures in paragraph (d)(1)(ii) of this section, toxicity testing data, or other information, that a discharge causes, has the reasonable potential to cause, or contributes to an in-stream excursion above a narrative criterion within an applicable State water quality standard, the permit must contain effluent limits for whole effluent toxicity. Limits on whole effluent toxicity are not necessary where the permitting authority demonstrates in the fact sheet or statement of basis of the NPDES permit, using the procedures in paragraph (d)(1)(ii) of this section, that chemical-specific limits for the effluent are sufficient to attain and maintain applicable numeric and narrative State water quality standards.

(vi) Where a State has not established a water quality criterion for a specific chemical pollutant that is present in an effluent at a concentration that causes, has the reasonable potential to cause, or contributes to an excursion above a narrative criterion within an applicable State water quality standard, the permitting authority must establish effluent limits using one or more of the following options:

(A) Establish effluent limits using a calculated numeric water quality criterion for the pollutant which the permitting authority demonstrates will attain and maintain applicable narrative water quality criteria and will fully protect the designated use. Such a criterion may be derived using a proposed State criterion, or an explicit State policy or regulation interpreting its narrative water quality criterion, supplemented with other relevant information which may include: EPA's Water Quality Standards Handbook, October 1983, risk assessment data, exposure data, information about the pollutant from the Food and Drug Administration, and current EPA criteria documents; or

(B) Establish effluent limits on a case-by-case basis, using EPA's water quality criteria, published under section 304(a) of the CWA, supplemented where necessary by other relevant information; or

(C) Establish effluent limitations on an indicator parameter for the pollutant of concern, provided:

(1) The permit identifies which pollutants are intended to be controlled by the use of the effluent limitation;

(2) The fact sheet required by § 124.56 sets forth the basis for the limit, including a finding that compliance with the effluent limit on the indicator parameter will result in controls on the pollutant of concern which are sufficient to attain and maintain applicable water quality standards;

(3) The permit requires all effluent and ambient monitoring necessary to show that during the term of the permit the limit on the indicator parameter continues to attain and maintain applicable water quality standards; and

(4) The permit contains a reopener clause allowing the permitting authority to modify or revoke and reissue the permit if the limits on the indicator parameter no longer attain and maintain applicable water quality standards.

(vii) When developing water quality-based effluent limits under this paragraph the permitting authority shall ensure that:

(A) The level of water quality to be achieved by limits on point sources established under this paragraph is derived from, and complies with all applicable water quality standards; and

(B) Effluent limits developed to protect a narrative water quality criterion, a numeric water quality criterion, or both, are consistent with the assumptions and requirements of any available wasteload allocation for the discharge prepared by the State and approved by EPA pursuant to 40 CFR 130.7.

(2) Attain or maintain a specified water quality through water quality related effluent limits established under section 302 of CWA;

(3) Conform to the conditions to a State certification under section 401 of the CWA that meets the requirements of § 124.53 when EPA is the permitting authority. If a State certification is stayed by a court of competent jurisdiction or an appropriate State board or agency, EPA shall notify the State that the Agency will deem certification waived unless a finally effective State certification is received within sixty days from the date of the notice. If the State does not forward a finally effective certification within the sixty day period, EPA shall include conditions in the permit that may be necessary to meet EPA's obligation under section 301(b)(1)(C) of the CWA;

(4) Conform to applicable water quality requirements under section 401(a)(2) of CWA when the discharge affects a State other than the certifying State;

(5) Incorporate any more stringent limitations, treatment standards, or schedule of compliance requirements established under Federal or State law or regulations in accordance with section 301(b)(1)(C) of CWA;

(6) Ensure consistency with the requirements of a Water Quality Management plan approved by EPA under section 208(b) of CWA;

(7) Incorporate section 403(c) criteria under part 125, subpart M, for ocean discharges;

(8) Incorporate alternative effluent limitations or standards where warranted by "fundamentally different factors," under 40 CFR part 125, subpart D;

(9) Incorporate any other appropriate requirements, conditions, or limitations (other than effluent limitations) into a new source permit to the extent allowed by the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.* and section 511 of the CWA, when EPA is the permit issuing authority. (See § 122.29(c)).

(e) *Technology-based controls for toxic pollutants.* Limitations established under paragraphs (a), (b), or (d) of this section, to control pollutants meeting the criteria listed in paragraph (e)(1) of this section. Limitations will be established in accordance with paragraph (e)(2) of this section. An explanation of the development of these limitations shall be included in the fact sheet under § 124.56(b)(1)(i).

(1) Limitations must control all toxic pollutants which the Director determines (based on information reported in a permit application under § 122.21(g)(7) or in a notification under § 122.42(a)(1) or on other information) are or may be discharged at a level greater than the level which can be achieved by the technology-based treatment requirements appropriate to the permittee under § 125.3(c) of this chapter; or

(2) The requirement that the limitations control the pollutants meeting the criteria of paragraph (e)(1) of this section will be satisfied by:

(i) Limitations on those pollutants; or

(ii) Limitations on other pollutants which, in the judgment of the Director, will provide treatment of the pollutants under paragraph (e)(1) of this section to the levels required by § 125.3(c).

(f) *Notification level.* A "notification level" which exceeds the notification level of § 122.42(a)(1)(i), (ii) or (iii), upon a petition from the permittee or on the Director's initiative. This new notification level may not exceed the level which can be achieved by the technology-based treatment requirements appropriate to the permittee under § 125.3(c)

(g) *Twenty-four hour reporting.* Pollutants for which the permittee must report violations of maximum daily discharge limitations under §122.41(l)(6)(ii)(C) (24-hour reporting) shall be listed in the permit. This list shall include any toxic pollutant or hazardous substance, or any pollutant specifically identified as the method to control a toxic pollutant or hazardous substance.

(h) *Durations* for permits, as set forth in §122.46.

(i) *Monitoring requirements.* In addition to §122.48, the following monitoring requirements:

(1) To assure compliance with permit limitations, requirements to monitor:

(i) The mass (or other measurement specified in the permit) for each pollutant limited in the permit;

(ii) The volume of effluent discharged from each outfall;

(iii) Other measurements as appropriate including pollutants in internal waste streams under §122.45(i); pollutants in intake water for net limitations under §122.45(f); frequency, rate of discharge, etc., for noncontinuous discharges under §122.45(e); pollutants subject to notification requirements under §122.42(a); and pollutants in sewage sludge or other monitoring as specified in 40 CFR part 503; or as determined to be necessary on a case-by-case basis pursuant to section 405(d)(4) of the CWA.

(iv) According to test procedures approved under 40 CFR Part 136 for the analyses of pollutants or another method is required under 40 CFR subchapters N or O. In the case of pollutants for which there are no approved methods under 40 CFR Part 136 or otherwise required under 40 CFR subchapters N or O, monitoring must be conducted according to a test procedure specified in the permit for such pollutants.

(2) Except as provided in paragraphs (i)(4) and (i)(5) of this section, requirements to report monitoring results shall be established on a case-by-case basis with a frequency dependent on the nature and effect of the discharge, but in no case less than once a year. For sewage sludge use or disposal practices, requirements to monitor and report results shall be established on a case-by-case basis with a frequency dependent on the nature and effect of the sewage sludge use or disposal practice; minimally this shall he as specified in 40 CFR part 503 (where applicable), but in no case less than once a year.

(3) Requirements to report monitoring results for storm water discharges associated with industrial activity which are subject to an effluent limitation guideline shall be established on a case-by-case basis with a frequency dependent on the nature and effect of the discharge, but in no case less than once a year.

(4) Requirements to report monitoring results for storm water discharges associated with industrial activity (other than those addressed in paragraph (i)(3) of this section) shall be established on a case-by-case basis with a frequency dependent on the nature and effect of the discharge. At a minimum, a permit for such a discharge must require:

(i) The discharger to conduct an annual inspection of the facility site to identify areas contributing to a storm water discharge associated with industrial activity and evaluate whether measures to reduce pollutant loadings identified in a storm water pollution prevention plan are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed;

(ii) The discharger to maintain for a period of three years a record summarizing the results of the inspection and a certification that the facility is in compliance with the plan and the permit, and identifying any incidents of non-compliance;

(iii) Such report and certification be signed in accordance with §122.22; and

(iv) Permits for storm water discharges associated with industrial activity from inactive mining operations may, where annual inspections are impracticable, require certification once every three years by a Registered Professional Engineer that the facility is in compliance with the permit, or alternative requirements.

(5) Permits which do not require the submittal of monitoring result reports at least annually shall require that the permittee report all instances of noncompliance not reported under

§ 122.41(l) (1), (4), (5), and (6) at least annually.

(j) *Pretreatment program for POTWs.* Requirements for POTWs to:

(1) Identify, in terms of character and volume of pollutants, any Significant Industrial Users discharging into the POTW subject to Pretreatment Standards under section 307(b) of CWA and 40 CFR part 403.

(2)(i) Submit a local program when required by and in accordance with 40 CFR part 403 to assure compliance with pretreatment standards to the extent applicable under section 307(b). The local program shall be incorporated into the permit as described in 40 CFR part 403. The program must require all indirect dischargers to the POTW to comply with the reporting requirements of 40 CFR part 403.

(ii) Provide a written technical evaluation of the need to revise local limits under 40 CFR 403.5(c)(1), following permit issuance or reissuance.

(3) For POTWs which are "sludge-only facilities," a requirement to develop a pretreatment program under 40 CFR part 403 when the Director determines that a pretreatment program is necessary to assure compliance with Section 405(d) of the CWA.

(k) *Best management practices (BMPs)* to control or abate the discharge of pollutants when:

(1) Authorized under section 304(e) of the CWA for the control of toxic pollutants and hazardous substances from ancillary industrial activities;

(2) Authorized under section 402(p) of the CWA for the control of storm water discharges;

(3) Numeric effluent limitations are infeasible; or

(4) The practices are reasonably necessary to achieve effluent limitations and standards or to carry out the purposes and intent of the CWA.

NOTE TO PARAGRAPH (k)(4): Additional technical information on BMPs and the elements of BMPs is contained in the following documents: Guidance Manual for Developing Best Management Practices (BMPs), October 1993, EPA No. 833/B-93-004, NTIS No. PB 94-178324, ERIC No. W498); Storm Water Management for Construction Activities: Developing Pollution Prevention Plans and Best Management Practices, September 1992, EPA No. 832/R-92-005, NTIS No. PB 92-235951, ERIC No. N482); Storm Water Management for Construction Activities, Developing Pollution Prevention Plans and Best Management Practices: Summary Guidance, EPA No. 833/R-92-001, NTIS No. PB 93-223550; ERIC No. W139; Storm Water Management for Industrial Activities, Developing Pollution Prevention Plans and Best Management Practices, September 1992; EPA 832/R-92-006, NTIS No. PB 92-235969, ERIC No. N477; Storm Water Management for Industrial Activities, Developing Pollution Prevention Plans and Best Management Practices: Summary Guidance, EPA 833/R-92-002, NTIS No. PB 94-133782; ERIC No. W492. Copies of those documents (or directions on how to obtain them) can be obtained by contacting either the Office of Water Resource Center (using the EPA document number as a reference) at (202) 260-7786; or the Educational Resources Information Center (ERIC) (using the ERIC number as a reference) at (800) 276-0462. Updates of these documents or additional BMP documents may also be available. A list of EPA BMP guidance documents is available on the OWM Home Page at *http://www.epa.gov/owm*. In addition, States may have BMP guidance documents.

These EPA guidance documents are listed here only for informational purposes; they are not binding and EPA does not intend that these guidance documents have any mandatory, regulatory effect by virtue of their listing in this note.

(l) *Reissued permits.* (1) Except as provided in paragraph (l)(2) of this section when a permit is renewed or reissued, interim effluent limitations, standards or conditions must be at least as stringent as the final effluent limitations, standards, or conditions in the previous permit (unless the circumstances on which the previous permit was based have materially and substantially changed since the time the permit was issued and would constitute cause for permit modification or revocation and reissuance under § 122.62.)

(2) In the case of effluent limitations established on the basis of Section 402(a)(1)(B) of the CWA, a permit may not be renewed, reissued, or modified on the basis of effluent guidelines promulgated under section 304(b) subsequent to the original issuance of such permit, to contain effluent limitations which are less stringent than the comparable effluent limitations in the previous permit.

(i) Exceptions—A permit with respect to which paragraph (l)(2) of this section applies may be renewed, reissued, or

modified to contain a less stringent effluent limitation applicable to a pollutant, if—

(A) Material and substantial alterations or additions to the permitted facility occurred after permit issuance which justify the application of a less stringent effluent limitation;

(B)(*1*) Information is available which was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and which would have justified the application of a less stringent effluent limitation at the time of permit issuance; or

(*2*) The Administrator determines that technical mistakes or mistaken interpretations of law were made in issuing the permit under section 402(a)(1)(b);

(C) A less stringent effluent limitation is necessary because of events over which the permittee has no control and for which there is no reasonably available remedy;

(D) The permittee has received a permit modification under section 301(c), 301(g), 301(h), 301(i), 301(k), 301(n), or 316(a); or

(E) The permittee has installed the treatment facilities required to meet the effluent limitations in the previous permit and has properly operated and maintained the facilities but has nevertheless been unable to achieve the previous effluent limitations, in which case the limitations in the reviewed, reissued, or modified permit may reflect the level of pollutant control actually achieved (but shall not be less stringent than required by effluent guidelines in effect at the time of permit renewal, reissuance, or modification).

(ii) *Limitations.* In no event may a permit with respect to which paragraph (l)(2) of this section applies be renewed, reissued, or modified to contain an effluent limitation which is less stringent than required by effluent guidelines in effect at the time the permit is renewed, reissued, or modified. In no event may such a permit to discharge into waters be renewed, issued, or modified to contain a less stringent effluent limitation if the implementation of such limitation would result in a violation of a water quality standard under section 303 applicable to such waters.

(m) *Privately owned treatment works.* For a privately owned treatment works, any conditions expressly applicable to any user, as a limited co-permittee, that may be necessary in the permit issued to the treatment works to ensure compliance with applicable requirements under this part. Alternatively, the Director may issue separate permits to the treatment works and to its users, or may require a separate permit application from any user. The Director's decision to issue a permit with no conditions applicable to any user, to impose conditions on one or more users, to issue separate permits, or to require separate applications, and the basis for that decision, shall be stated in the fact sheet for the draft permit for the treatment works.

(n) *Grants.* Any conditions imposed in grants made by the Administrator to POTWs under sections 201 and 204 of CWA which are reasonably necessary for the achievement of effluent limitations under section 301 of CWA.

(o) *Sewage sludge.* Requirements under section 405 of CWA governing the disposal of sewage sludge from publicly owned treatment works or any other treatment works treating domestic sewage for any use for which regulations have been established, in accordance with any applicable regulations.

(p) *Coast Guard.* When a permit is issued to a facility that may operate at certain times as a means of transportation over water, a condition that the discharge shall comply with any applicable regulations promulgated by the Secretary of the department in which the Coast Guard is operating, that establish specifications for safe transportation, handling, carriage, and storage of pollutants.

(q) *Navigation.* Any conditions that the Secretary of the Army considers necessary to ensure that navigation and anchorage will not be substantially impaired, in accordance with §124.59 of this chapter.

(r) *Great Lakes.* When a permit is issued to a facility that discharges into the Great Lakes System (as defined in 40 CFR 132.2), conditions promulgated by the State, Tribe, or EPA pursuant to 40 CFR part 132.

(s) *Qualifying State, Tribal, or local programs.* (1) For storm water discharges associated with small construction activity identified in §122.26(b)(15), the Director may include permit conditions that incorporate qualifying State, Tribal, or local erosion and sediment control program requirements by reference. Where a qualifying State, Tribal, or local program does not include one or more of the elements in this paragraph (s)(1), then the Director must include those elements as conditions in the permit. A qualifying State, Tribal, or local erosion and sediment control program is one that includes:

(i) Requirements for construction site operators to implement appropriate erosion and sediment control best management practices;

(ii) Requirements for construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality;

(iii) Requirements for construction site operators to develop and implement a storm water pollution prevention plan. (A storm water pollution prevention plan includes site descriptions, descriptions of appropriate control measures, copies of approved State, Tribal or local requirements, maintenance procedures, inspection procedures, and identification of nonstorm water discharges); and

(iv) Requirements to submit a site plan for review that incorporates consideration of potential water quality impacts.

(2) For storm water discharges from construction activity identified in §122.26(b)(14)(x), the Director may include permit conditions that incorporate qualifying State, Tribal, or local erosion and sediment control program requirements by reference. A qualifying State, Tribal or local erosion and sediment control program is one that includes the elements listed in paragraph (s)(1) of this section and any additional requirements necessary to achieve the applicable technology-based standards of "best available technology" and "best conventional technology" based on the best professional judgment of the permit writer.

[48 FR 14153, Apr. 1, 1983]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §122.44, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at *www.fdsys.gov.*

§122.45 Calculating NPDES permit conditions (applicable to State NPDES programs, see §123.25).

(a) *Outfalls and discharge points.* All permit effluent limitations, standards and prohibitions shall be established for each outfall or discharge point of the permitted facility, except as otherwise provided under §122.44(k) (BMPs where limitations are infeasible) and paragraph (i) of this section (limitations on internal waste streams).

(b) *Production-based limitations.* (1) In the case of POTWs, permit effluent limitations, standards, or prohibitions shall be calculated based on design flow.

(2)(i) Except in the case of POTWs or as provided in paragraph (b)(2)(ii) of this section, calculation of any permit limitations, standards, or prohibitions which are based on production (or other measure of operation) shall be based not upon the designed production capacity but rather upon a reasonable measure of actual production of the facility. For new sources or new dischargers, actual production shall be estimated using projected production. The time period of the measure of production shall correspond to the time period of the calculated permit limitations; for example, monthly production shall be used to calculate average monthly discharge limitations.

(ii)(A)(*1*) The Director may include a condition establishing alternate permit limitations, standards, or prohibitions based upon anticipated increased (not to exceed maximum production capability) or decreased production levels.

(*2*) *For the automotive manufacturing industry* only, the Regional Administrator shall, and the State Director may establish a condition under paragraph (b)(2)(ii)(A)(*1*) of this section if the applicant satisfactorily demonstrates to the Director at the time the application is submitted that its

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

Hexachlorobenzene
Hexachlorobutadiene
Hexachlorocyclo-pentadiene
Hexachloroethane
Indeno(1,2,3-cd)pyrene
Isophorone
Naphthalene
Nitrobenzene
N-nitrosodi-n-propylamine
N-nitrosodimethylamine
N-nitrosodiphenylamine
Phenanthrene
Pyrene
1,2,4,-trichlorobenzene

[65 FR 42469, Aug. 4, 2000]

PART 123—STATE PROGRAM REQUIREMENTS

Subpart A—General

Sec.
123.1 Purpose and scope.
123.2 Definitions.
123.3 Coordination with other programs.

Subpart B—State Program Submissions

123.21 Elements of a program submission.
123.22 Program description.
123.23 Attorney General's statement.
123.24 Memorandum of Agreement with the Regional Administrator.
123.25 Requirements for permitting.
123.26 Requirements for compliance evaluation programs.
123.27 Requirements for enforcement authority.
123.28 Control of disposal of pollutants into wells.
123.29 Prohibition.
123.30 Judicial review of approval or denial of permits.
123.31 Requirements for eligibility of Indian Tribes.
123.32 Request by an Indian Tribe for a determination of eligibility.
123.33 Procedures for processing an Indian Tribe's application.
123.34 Provisions for Tribal criminal enforcement authority.
123.35 As the NPDES Permitting Authority for regulated small MS4s, what is my role?
123.36 Establishment of technical standards for concentrated animal feeding operations.

Subpart C—Transfer of Information and Permit Review

123.41 Sharing of information.
123.42 Receipt and use of Federal information.
123.43 Transmission of information to EPA.
123.44 EPA review of and objections to State permits.
123.45 Noncompliance and program reporting by the Director.
123.46 Individual control strategies.

Subpart D—Program Approval, Revision, and Withdrawal

123.61 Approval process.
123.62 Procedures for revision of State programs.
123.63 Criteria for withdrawal of State programs.
123.64 Procedures for withdrawal of State programs.

AUTHORITY: Clean Water Act, 33 U.S.C. 1251 *et seq.*

SOURCE: 48 FR 14178, Apr. 1, 1983, unless otherwise noted.

Subpart A—General

§ 123.1 Purpose and scope.

(a) This part specifies the procedures EPA will follow in approving, revising, and withdrawing State programs and the requirements State programs must meet to be approved by the Administrator under sections 318, 402, and 405(a) (National Pollutant Discharge Elimination System—NPDES) of the CWA. This part also specifies the procedures EPA will follow in approving, revising, and withdrawing State programs under section 405(f) (sludge management programs) of the CWA. The requirements that a State sewage sludge management program must meet for approval by the Administrator under section 405(f) are set out at 40 CFR part 501.

(b) These regulations are promulgated under the authority of sections 304(i), 101(e), 405, and 518(e) of the CWA, and implement the requirements of those sections.

(c) The Administrator will approve State programs which conform to the applicable requirements of this part. A State NPDES program will not be approved by the Administrator under section 402 of CWA unless it has authority to control the discharges specified in sections 318 and 405(a) of CWA. Permit programs under sections 318 and 405(a) will not be approved independent of a section 402 program.

(d)(1) Upon approval of a State program, the Administrator shall suspend the issuance of Federal permits for

those activities subject to the approved State program. After program approval EPA shall retain jurisdiction over any permits (including general permits) which it has issued unless arrangements have been made with the State in the Memorandum of Agreement for the State to assume responsibility for these permits. Retention of jurisdiction shall include the processing of any permit appeals, modification requests, or variance requests; the conduct of inspections, and the receipt and review of self-monitoring reports. If any permit appeal, modification request or variance request is not finally resolved when the federally issued permit expires, EPA may, with the consent of the State, retain jurisdiction until the matter is resolved.

(2) The procedures outlined in the preceding paragraph (d)(1) of this section for suspension of permitting authority and transfer of existing permits will also apply when EPA approves an Indian Tribe's application to operate a State program and a State was the authorized permitting authority under §123.23(b) for activities within the scope of the newly approved program. The authorized State will retain jurisdiction over its existing permits as described in paragraph (d)(1) of this section absent a different arrangement stated in the Memorandum of Agreement executed between EPA and the Tribe.

(e) Upon submission of a complete program, EPA will conduct a public hearing, if interest is shown, and determine whether to approve or disapprove the program taking into consideration the requirements of this part, the CWA and any comments received.

(f) Any State program approved by the Administrator shall at all times be conducted in accordance with the requirements of this part.

(g)(1) Except as may be authorized pursuant to paragraph (g)(2) of this section or excluded by §122.3, the State program must prohibit all point source discharges of pollutants, all discharges into aquaculture projects, and all disposal of sewage sludge which results in any pollutant from such sludge entering into any waters of the United States within the State's jurisdiction except as authorized by a permit in effect under the State program or under section 402 of CWA. NPDES authority may be shared by two or more State agencies but each agency must have Statewide jurisdiction over a class of activities or discharges. When more than one agency is responsible for issuing permits, each agency must make a submission meeting the requirements of §123.21 before EPA will begin formal review.

(2) A State may seek approval of a partial or phased program in accordance with section 402(n) of the CWA.

(h) In many cases, States (other than Indian Tribes) will lack authority to regulate activities on Indian lands. This lack of authority does not impair that State's ability to obtain full program approval in accordance with this part, i.e., inability of a State to regulate activities on Indian lands does not constitute a partial program. EPA will administer the program on Indian lands if a State (or Indian Tribe) does not seek or have authority to regulate activities on Indian lands.

NOTE: States are advised to contact the United States Department of the Interior, Bureau of Indian Affairs, concerning authority over Indian lands.

(i) Nothing in this part precludes a State from:

(1) Adopting or enforcing requirements which are more stringent or more extensive than those required under this part;

(2) Operating a program with a greater scope of coverage than that required under this part. If an approved State program has greater scope of coverage than required by Federal law the additional coverage is not part of the Federally approved program.

NOTE: For example, if a State requires permits for discharges into publicly owned treatment works, these permits are not NPDES permits.

[48 FR 14178, Apr. 1, 1983, as amended at 54 FR 256, Jan. 4, 1989; 54 FR 18784, May 2, 1989; 58 FR 67981, Dec. 22, 1993; 59 FR 64343, Dec. 14, 1994; 63 FR 45122, Aug. 24, 1998]

§123.3 Definitions.

The definitions in part 122 apply to all subparts of this part.

[63 FR 45122, Aug. 24, 1998]

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

§ 123.3 Coordination with other programs.

Issuance of State permits under this part may be coordinated with issuance of RCRA, UIC, NPDES, and 404 permits whether they are controlled by the State, EPA, or the Corps of Engineers. See § 124.4.

Subpart B—State Program Submissions

§ 123.21 Elements of a program submission.

(a) Any State that seeks to administer a program under this part shall submit to the Administrator at least three copies of a program submission. The submission shall contain the following:

(1) A letter from the Governor of the State (or in the case of an Indian Tribe in accordance with § 123.33(b), the Tribal authority exercising powers substantially similar to those of a State Governor) requesting program approval;

(2) A complete program description, as required by § 123.22, describing how the State intends to carry out its responsibilities under this part;

(3) An Attorney General's statement as required by § 123.23;

(4) A Memorandum of Agreement with the Regional Administrator as required by § 123.24;

(5) Copies of all applicable State statutes and regulations, including those governing State administrative procedures;

(b)(1) Within 30 days of receipt by EPA of a State program submission, EPA will notify the State whether its submission is complete. If EPA finds that a State's submission is complete, the statutory review period (i.e., the period of time allotted for formal EPA review of a proposed State program under CWA) shall be deemed to have begun on the date of receipt of the State's submission. If EPA finds that a State's submission is incomplete, the statutory review period shall not begin until all the necessary information is received by EPA.

(2) In the case of an Indian Tribe eligible under § 123.33(b), EPA shall take into consideration the contents of the Tribe's request submitted under § 123.32, in determining if the program submission required by § 123.21(a) is complete.

(c) If the State's submission is materially changed during the statutory review period, the statutory review period shall begin again upon receipt of the revised submission.

(d) The State and EPA may extend the statutory review period by agreement.

[48 FR 14178, Apr. 1, 1983; 50 FR 6941, Feb. 19, 1985, as amended at 58 FR 67981, Dec. 22, 1993; 59 FR 64343, Dec. 14, 1994]

§ 123.22 Program description.

Any State that seeks to administer a program under this part shall submit a description of the program it proposes to administer in lieu of the Federal program under State law or under an interstate compact. The program description shall include:

(a) A description in narrative form of the scope, structure, coverage and processes of the State program.

(b) A description (including organization charts) of the organization and structure of the State agency or agencies which will have responsibility for administering the program, including the information listed below. If more than one agency is responsible for administration of a program, each agency must have statewide jurisdiction over a class of activities. The responsibilities of each agency must be delineated, their procedures for coordination set forth, and an agency may be designated as a "lead agency" to facilitate communications between EPA and the State agencies having program responsibility. If the State proposes to administer a program of greater scope of coverage than is required by Federal law, the information provided under this paragraph shall indicate the resources dedicated to administering the Federally required portion of the program.

(1) A description of the State agency staff who will carry out the State program, including the number, occupations, and general duties of the employees. The State need not submit complete job descriptions for every employee carrying out the State program.

(2) An itemization of the estimated costs of establishing and administering the program for the first two years after approval, including cost of the

personnel listed in paragraph (b)(1) of this section, cost of administrative support, and cost of technical support.

(3) An itemization of the sources and amounts of funding, including an estimate of Federal grant money, available to the State Director for the first two years after approval to meet the costs listed in paragraph (b)(2) of this section, identifying any restrictions or limitations upon this funding.

(c) A description of applicable State procedures, including permitting procedures and any State administrative or judicial review procedures;

(d) Copies of the permit form(s), application form(s), and reporting form(s) the State intends to employ in its program. Forms used by States need not be identical to the forms used by EPA but should require the same basic information, except that State NPDES programs are required to use standard Discharge Monitoring Reports (DMR). The State need not provide copies of uniform national forms it intends to use but should note its intention to use such forms.

NOTE: States are encouraged to use uniform national forms established by the Administrator. If uniform national forms are used, they may be modified to include the State Agency's name, address, logo, and other similar information, as appropriate, in place of EPA's.

(e) A complete description of the State's compliance tracking and enforcement program.

(f) In the case of Indian Tribes eligible under §123.33(b), if a State has been authorized by EPA to issue permits on the Federal Indian reservation in accordance with §123.23(b), a description of how responsibility for pending permit applications, existing permits, and supporting files will be transferred from the State to the eligible Indian Tribe. To the maximum extent practicable, this should include a Memorandum of Agreement negotiated between the State and the Indian Tribe addressing the arrangements for such transfer.

[48 FR 14178, Apr. 1, 1983; 50 FR 6941, Feb. 19, 1985, as amended at 54 FR 18784, May 2, 1989; 58 FR 67981, Dec. 22, 1993; 59 FR 64343, Dec. 14, 1994; 63 FR 45122, Aug. 24, 1998]

§ 123.23 Attorney General's statement.

(a) Any State that seeks to administer a program under this part shall submit a statement from the State Attorney General (or the attorney for those State or interstate agencies which have independent legal counsel) that the laws of the State, or an interstate compact, provide adequate authority to carry out the program described under §123.22 and to meet the requirements of this part. This statement shall include citations to the specific statutes, administrative regulations, and, where appropriate, judicial decisions which demonstrate adequate authority. State statutes and regulations cited by the State Attorney General or independent legal counsel shall be in the form of lawfully adopted State statutes and regulations at the time the statement is signed and shall be fully effective by the time the program is approved. To qualify as "independent legal counsel" the attorney signing the statement required by this section must have full authority to independently represent the State agency in court on all matters pertaining to the State program.

NOTE: EPA will supply States with an Attorney General's statement format on request.

(b) If a State (which is not an Indian Tribe) seeks authority over activities on Indian lands, the statement shall contain an appropriate analysis of the State's authority.

(c) The Attorney General's statement shall certify that the State has adequate legal authority to issue and enforce general permits if the State seeks to implement the general permit program under §122.28.

[48 FR 14178, Apr. 1, 1983, as amended at 58 FR 67981, Dec. 22, 1993]

§ 123.24 Memorandum of Agreement with the Regional Administrator.

(a) Any State that seeks to administer a program under this part shall submit a Memorandum of Agreement. The Memorandum of Agreement shall be executed by the State Director and the Regional Administrator and shall become effective when approved by the Administrator. In addition to meeting the requirements of paragraph (b) of this section, the Memorandum of

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

goals established in the State's water quality standards.

(d) These control measures are implemented by issuing permits, building publicly-owned treatment works (POTWs), instituting best management practices for nonpoint sources of pollution and other means. After control measures are in place, the State evaluates the extent of the resulting improvements in water quality, conducts additional data gathering and planning to determine needed modifications in control measures and again institutes control measures.

(e) This process is a dynamic one, in which requirements and emphases vary over time. At present, States have completed WQM plans which are generally comprehensive in geographic and programmatic scope. Technology based controls are being implemented for most point sources of pollution. However, WQS have not been attained in many water bodies and are threatened in others.

(f) Present continuing planning requirements serve to identify these critical water bodies, develop plans for achieving higher levels of abatement and specify additional control measures. Consequently, this regulation reflects a programmatic emphasis on concentrating planning and abatement activities on priority water quality issues and geographic areas. EPA will focus its grant funds on activities designed to address these priorities. Annual work programs negotiated between EPA and State and interstate agencies will reflect this emphasis.

§ 130.1 Applicability.

(a) This subpart applies to all State, eligible Indian Tribe, interstate, areawide and regional and local CWA water quality planning and management activities undertaken on or after February 11, 1985 including all updates and continuing certifications for approved Water Quality Management (WQM) plans developed under sections 208 and 303 of the Act.

(b) Planning and management activities undertaken prior to February 11, 1985 are governed by the requirements of the regulations in effect at the time of the last grant award.

[50 FR 1779, Jan. 11, 1985, as amended at 54 FR 14359, Apr. 11, 1989; 59 FR 13817, Mar. 23, 1994]

§ 130.2 Definitions.

(a) *The Act.* The Clean Water Act, as amended, 33 U.S.C. 1251 *et seq.*

(b) *Indian Tribe.* Any Indian Tribe, band, group, or community recognized by the Secretary of the Interior and exercising governmental authority over a Federal Indian reservation.

(c) *Pollution.* The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(d) *Water quality standards (WQS).* Provisions of State or Federal law which consist of a designated use or uses for the waters of the United States and water quality criteria for such waters based upon such uses. Water quality standards are to protect the public health or welfare, enhance the quality of water and serve the purposes of the Act.

(e) *Load or loading.* An amount of matter or thermal energy that is introduced into a receiving water; to introduce matter or thermal energy into a receiving water. Loading may be either man-caused (pollutant loading) or natural (natural background loading).

(f) *Loading capacity.* The greatest amount of loading that a water can receive without violating water quality standards.

(g) *Load allocation (LA).* The portion of a receiving water's loading capacity that is attributed either to one of its existing or future nonpoint sources of pollution or to natural background sources. Load allocations are best estimates of the loading, which may range from reasonably accurate estimates to gross allotments, depending on the availability of data and appropriate techniques for predicting the loading. Wherever possible, natural and nonpoint source loads should be distinguished.

(h) *Wasteload allocation (WLA).* The portion of a receiving water's loading capacity that is allocated to one of its existing or future point sources of pollution. WLAs constitute a type of

water quality-based effluent limitation.

(i) *Total maximum daily load (TMDL).* The sum of the individual WLAs for point sources and LAs for nonpoint sources and natural background. If a receiving water has only one point source discharger, the TMDL is the sum of that point source WLA plus the LAs for any nonpoint sources of pollution and natural background sources, tributaries, or adjacent segments. TMDLs can be expressed in terms of either mass per time, toxicity, or other appropriate measure. If Best Management Practices (BMPs) or other nonpoint source pollution controls make more stringent load allocations practicable, then wasteload allocations can be made less stringent. Thus, the TMDL process provides for nonpoint source control tradeoffs.

(j) *Water quality limited segment.* Any segment where it is known that water quality does not meet applicable water quality standards, and/or is not expected to meet applicable water quality standards, even after the application of the technology-based effluent limitations required by sections 301(b) and 306 of the Act.

(k) *Water quality management (WQM) plan.* A State or areawide waste treatment management plan developed and updated in accordance with the provisions of sections 205(j), 208 and 303 of the Act and this regulation.

(l) *Areawide agency.* An agency designated under section 208 of the Act, which has responsibilities for WQM planning within a specified area of a State.

(m) *Best Management Practice (BMP).* Methods, measures or practices selected by an agency to meet its nonpoint source control needs. BMPs include but are not limited to structural and nonstructural controls and operation and maintenance procedures. BMPs can be applied before, during and after pollution-producing activities to reduce or eliminate the introduction of pollutants into receiving waters.

(n) *Designated management agency (DMA).* An agency identified by a WQM plan and designated by the Governor to implement specific control recommendations.

[50 FR 1779, Jan. 11, 1985, as amended at 54 FR 14359, Apr. 11, 1989]

§ 130.3 Water quality standards.

A water quality standard (WQS) defines the water quality goals of a water body, or portion thereof, by designating the use or uses to be made of the water and by setting criteria necessary to protect the uses. States and EPA adopt WQS to protect public health or welfare, enhance the quality of water and serve the purposes of the Clean Water Act (CWA). *Serve the purposes of Act* (as defined in sections 101(a)(2) and 303(c) of the Act) means that WQS should, wherever attainable, provide water quality for the protection and propagation of fish, shellfish and wildlife and for recreation in and on the water and take into consideration their use and value for public water supplies, propagation of fish, shellfish, wildlife, recreation in and on the water, and agricultural, industrial and other purposes including navigation.

Such standards serve the dual purposes of establishing the water quality goals for a specific water body and serving as the regulatory basis for establishment of water quality-based treatment controls and strategies beyond the technology-based level of treatment required by sections 301(b) and 306 of the Act. States shall review and revise WQS in accordance with applicable regulations and, as appropriate, update their Water Quality Management (WQM) plans to reflect such revisions. Specific WQS requirements are found in 40 CFR part 131.

§ 130.4 Water quality monitoring.

(a) In accordance with section 106(e)(1), States must establish appropriate monitoring methods and procedures (including biological monitoring) necessary to compile and analyze data on the quality of waters of the United States and, to the extent practicable, ground-waters. This requirement need not be met by Indian Tribes. However, any monitoring and/or analysis activities undertaken by a Tribe must be performed in accordance with EPA's

EXHIBIT E

CITY OF BURBANK, Plaintiff and Appellant, v. STATE WATER RESOURCES CONTROL BOARD et al., Defendants and Appellants. CITY OF LOS ANGELES, Plaintiff and Respondent, v. STATE WATER RESOURCES CONTROL BOARD et al., Defendants and Appellants.

S119248

SUPREME COURT OF CALIFORNIA

35 Cal. 4th 613*; *108 P.3d 862*; *26 Cal. Rptr. 3d 304*; *2005 Cal. LEXIS 3486*; *60 ERC (BNA) 1470*; *2005 Cal. Daily Op. Service 2861*; *2005 Daily Journal DAR 3870*; *35 ELR 20071

April 4, 2005, Filed

SUBSEQUENT HISTORY: Time for Granting or Denying Rehearing Extended *Burbank, City of v. State Water Resources Control Board, 2005 Cal. LEXIS 4271 (Cal., Apr. 21, 2005)*
Rehearing denied by, Request denied by *City of Burbank v. State Water Res. Control Bd., 2005 Cal. LEXIS 7185 (Cal., June 29, 2005)*

PRIOR HISTORY: Superior Court of Los Angeles County, Nos. BS060960, BS060957, Dzintra I. Janavs, Judge. Court of Appeal, Second Dist., Div. Three, Nos. B150912, B151175 & B152562.
City of Burbank v. State Water Resources Control Bd., 111 Cal. App. 4th 245, 4 Cal. Rptr. 3d 27, 2003 Cal. App. LEXIS 1236 (Cal. App. 2d Dist., 2003)

DISPOSITION: Judgment affirmed in part and remanded in part..

SUMMARY:

CALIFORNIA OFFICIAL REPORTS SUMMARY

The trial court ruled that California law required a regional water quality control board to weigh the economic burden on a wastewater treatment facility against the expected environmental benefits of reducing pollutants in the wastewater discharge. The cities owned three treatment plants that discharged wastewater under National Pollutant Discharge Elimination System permits issued by the regional board. (Superior Court of Los Angeles County, Nos. BS060960 and BS060957, Dzintra I. Janavs, Judge.) The Court of Appeal, Second Dist., Div. Three, Nos. B150912, B151175 and B152562, concluded that *Wat. Code, §§ 13241* and *13263*, required a regional board to take into account "economic considerations" when it adopted water quality standards in a basin plan but not when the regional board set specific pollutant restrictions in wastewater discharge permits intended to satisfy those standards.

The Supreme Court affirmed the judgment of the Court of Appeal, reinstating the wastewater discharge permits in part and remanding for further proceedings. The court held that whether the regional board should have complied with *Wat. Code, §§ 13263* and *13241*, of California's Porter-Cologne Water Quality Control Act, *Wat. Code, § 13000 et seq.*, by taking into account "economic considerations," such as the costs the permit holder would incur to comply with the numeric pollutant restrictions set out in the permits, depended on whether those restrictions met or exceeded the requirements of the federal Clean Water Act, *33 U.S.C. § 1251 et seq.* To comport with the principles of federal supremacy, California law could not authorize California's regional boards to allow the discharge of pollutants into the navigable waters of the United States in concentrations that would exceed the mandates of federal law. The federal Clean Water Act did not prohibit a state, when imposing effluent limitations that were more stringent than required by [*614] federal law, from taking into account the economic effects of doing so. (Opinion by Kennard, J., with George, C. J., Baxter, Werdegar, Chin, and Moreno, JJ., concurring. Concurring opinion by Brown, J. (see p. 629).)

HEADNOTES

CALIFORNIA OFFICIAL REPORTS HEADNOTES
Classified to California Digest of Official Reports

(1) Pollution and Conservation Laws § 5--Water--"Basin Plans."--Whereas the State Water Resources Control Board establishes statewide policy for water quality control, *Wat. Code, § 13140*, the regional boards formulate and adopt water quality control plans for all areas within a region, *Wat. Code, § 13240*. Under *Wat. Code, § 13050, subd. (j)*, the regional boards' water quality plans, called "basin plans," must address the beneficial uses to be protected as well as water quality objectives, and they must establish a program of implementation. Basin plans must be consistent with state policy for water quality control under *Wat. Code, § 13240*.

(2) Pollution and Conservation Laws § 5--Water--Federal and State Standards.--Under *33 U.S.C. § 1370*, of the federal Clean Water Act, *33 U.S.C. § 1251 et seq.*, each state is free to enforce its own water quality laws so long as its effluent limitations are not less stringent than those set out in the Clean Water Act.

(3) Pollution and Conservation Laws § 5--Water--Federal and State Standards.--The Clean Water Act, *33 U.S.C. § 1251 et seq.*, provides for two sets of water quality measures. Pursuant to *33 U.S.C. §§ 1311* and *1314*, effluent limitations are promulgated by the Environmental Protection Agency and restrict the quantities, rates, and concentrations of specified substances which are discharged from point sources. Water quality standards are, in general, promulgated by the states and establish the desired condition of a waterway under *33 U.S.C. § 1313*. These standards supplement effluent limitations so that numerous point sources, despite individual compliance with effluent limitations, may be further regulated to prevent water quality from falling below acceptable levels.

(4) Pollution and Conservation Laws § 5--Water--Federal and State Standards.--The Environmental Protection Agency (EPA) provides states with substantial guidance in the drafting of water quality standards. Moreover, the Clean Water Act, *33 U.S.C. § 1251 et seq.*, requires, inter alia, that state authorities periodically review water quality [*615] standards and secure the EPA's approval of any revisions in the standards. If the EPA recommends changes to the standards and the state fails to comply with that recommendation, *33 U.S.C. § 1313(c)*, authorizes the EPA to promulgate water quality standards for the state.

(5) Pollution and Conservation Laws § 5--Water--National Pollutant Discharge Elimination System.--Part of the federal Clean Water Act, *33 U.S.C. § 1251 et seq.*, is the National Pollutant Discharge Elimination System (NPDES), the primary means for enforcing effluent limitations and standards under the Clean Water Act. *Title 33 U.S.C. § 1342(a), (b)*, of the NPDES sets out the conditions under which the federal Environmental Protection Agency or a state with an approved water quality control program can issue permits for the discharge of pollutants in wastewater. Under California law, *Wat. Code, § 13374*, wastewater discharge requirements established by the regional boards are the equivalent of the NPDES permits required by federal law.

(6) Statutes § 21--Construction--Legislative Intent.--When construing any statute, the reviewing court's task is to determine the Legislature's intent when it enacted the statute so that the court may adopt the construction that best effectuates the purpose of the law. In doing this, the court looks to the statutory language, which ordinarily is the most reliable indicator of legislative intent.

(7) Pollution and Conservation Laws § 5--Water--Wastewater Discharge Permits--Economic Considerations.--*Wat. Code, § 13263*, directs regional boards, when issuing wastewater discharge permits, to take into account various factors, including those set out in *Wat. Code, § 13241*. Listed among the *§ 13241* factors is economic considerations, in *§ 13241, subd. (d)*.

(8) Pollution and Conservation Laws § 5--Water--Wastewater Discharge Permits--Economic Considerations.--*Wat. Code, § 13377*, specifies that wastewater discharge permits issued by California's regional boards must meet the federal standards set by federal law. In effect, *§ 13377* forbids a regional board's consideration of any economic hardship on the part of the permit holder if doing so would result in the dilution of the requirements set by Congress in the Clean Water Act. That act prohibits the discharge of pollutants into the navigable waters of [*616] the United States unless there is compliance with federal law (*33 U.S.C. § 1311(a)*), and publicly operated wastewater treatment plants must comply with the act's clean water standards under *33 U.S.C. §§ 1311(a), (b)(1)(B)* and *(C), 1342(a)(1)* and *(3)*, regardless of cost.

(9) Pollution and Conservation Laws § 5--Water--Wastewater Discharge Permits--Economic Considerations.--Because *Wat. Code, § 13263*, cannot authorize what federal law forbids, it cannot authorize a regional board, when issuing a wastewater discharge permit, to use compliance costs to justify pollutant re-

strictions that do not comply with federal clean water standards. Such a construction of *§ 13263* would not only be inconsistent with federal law, it would also be inconsistent with the Legislature's declaration in *Wat. Code, § 13377*, that all discharged wastewater must satisfy federal standards. Moreover, under the federal Constitution's supremacy clause, U.S. Const., art. VI, a state law that conflicts with federal law is without effect. To comport with the principles of federal supremacy, California law cannot authorize the state's regional boards to allow the discharge of pollutants into the navigable waters of the United States in concentrations that would exceed the mandates of federal law.

(10) Pollution and Conservation Laws § 5--Water--Federal and State Standards.--The federal Clean Water Act, *33 U.S.C. § 1251 et seq.*, reserves to the states significant aspects of water quality policy under *33 U.S.C. § 1251(b)*, and it specifically grants the states authority to enforce any effluent limitation that is not less stringent than the federal standard under *33 U.S.C. § 1370*. It does not prescribe or restrict the factors that a state may consider when exercising this reserved authority, and thus it does not prohibit a state--when imposing effluent limitations that are more stringent than required by federal law--from taking into account the economic effects of doing so. Thus, a regional board, when issuing a wastewater discharge permit, may not consider economic factors to justify imposing pollutant restrictions that are less stringent than the applicable federal standards require. When, however, a regional board is considering whether to make the pollutant restrictions in a wastewater discharge permit more stringent than federal law requires, California law allows the board to take into account economic factors, including the wastewater discharger's cost of compliance.

[4 Witkin, Summary of Cal. Law (9th ed. 1987) Real Property, §§ 68, 69.] [*617]

COUNSEL: Bill Lockyer, Attorney General, Manuel M. Medeiros, State Solicitor General, Richard M. Frank and Tom Greene, Chief Assistant Attorneys General, Mary E. Hackenbracht, Assistant Attorney General, Marilyn H. Levin and Gregory J. Newmark, Deputy Attorneys General, for Defendants and Appellants.

David S. Beckman and Dan L. Gildor for Natural Resources Defense Counsel, Butte Environmental Council, California Coastkeeper Alliance, CalTrout, Clean Water Action, Clean Water Fund, Coalition on the Environment and Jewish Life of Southern California, Coast Action Group, Defend the Bay, Ecological Rights Foundation, Environment in the Public Interest, Environmental Defense Center, Heal the Bay, Los Angeles Interfaith Environment Council, Ocean Conservancy, Orange County Coastkeeper, San Diego Baykeeper, Santa Barbara Channelkeeper, Santa Monica Baykeeper, Southern California Watershed Alliance, Ventura Coastkeeper, Waterkeeper Alliance, Waterkeepers Northern California, Westside Aquatics, Inc., and Wishtoyo Foundation as Amici Curiae on behalf of Defendants and Appellants.

Downey, Brand, Seymour & Rohwer, Downey Brand, Melissa A. Thorme, Jeffrey S. Galvin, Nicole E. Granquist and Cassandra M. Ferrannini for Plaintiffs and Appellants.

Dennis A. Barlow, City Attorney, and Carolyn A. Barnes, Assistant City Attorney, for Defendant and Appellant City of Burbank.

Rockard J. Delgadillo, City Attorney, and Christopher M. Westhoff, Assistant City Attorney, for Plaintiff and Appellant City of Los Angeles.

Rutan & Tucker and Richard Montevideo for Cities of Baldwin Park, Bell, Cerritos, Diamond Bar, Downey, Gardena, Montebello, Monterey Park, Paramount, Pico Rivera, Rosemead, San Gabriel, San Marino, Santa Fe Springs, Sierra Madre, Signal Hill, Temple City and West Covina, the California Building Industry Association and the Building Industry Legal Defense Foundation as Amici Curiae on behalf of Plaintiffs and Appellants.

Stoel Rives and Lawrence S. Bazel for Western Coalition of Arid States as Amicus Curiae on behalf of Plaintiffs and Appellants.

Richards, Watson & Gershon and John J. Harris for the League of California Cities as Amicus Curiae on behalf of Plaintiffs and Appellants.

[*618] Squire, Sanders & Dempsey, Joseph A. Meckes; David W. Burchmore; and Alexandra Dapolito Dunn for Association of Metropolitan Sewerage Agencies as Amicus Curiae on behalf of Plaintiffs and Appellants.

Lewis, Brisbois, Bisgaard & Smith and B. Richard Marsh for County Sanitation Districts of Los Angeles County as Amicus Curiae on behalf of Plaintiffs and Appellants.

Fulbright & Jaworski, Colin Lennard, Patricia Chen; Archer Norris and Peter W. McGaw for California Association of Sanitation Agencies as Amicus Curiae on behalf of Plaintiffs and Appellants. [***306]

JUDGES: Kennard, J., with George, C. J., Baxter, Werdegar, Chin, and Moreno, JJ., concurring. Concurring opinion by Brown, J.

OPINION BY: KENNARD [**864]

OPINION

KENNARD, J.--Federal law establishes national water quality standards but allows the states to enforce their own water quality laws so long as they comply with federal standards. Operating within this federal-state framework, California's nine Regional Water Quality Control Boards establish water quality policy. They also issue permits for the discharge of treated wastewater; these permits specify the maximum allowable concentration of chemical pollutants in the discharged wastewater.

The question here is this: When a regional board issues a permit to a wastewater treatment facility, must the board take into account the facility's costs of complying with the board's restrictions on pollutants in the wastewater to be discharged? The trial court ruled that California law required a regional board to weigh the economic burden on the facility against the expected environmental benefits of reducing pollutants in the wastewater discharge. The Court of Appeal disagreed. On petitions by the municipal operators of three wastewater treatment facilities, we granted review.

We reach the following conclusions: Because both California law and federal law require regional boards to comply with federal clean water standards, and because the *supremacy clause of the United States Constitution* requires state law to yield to federal law, a regional board, when issuing a wastewater discharge permit, may not consider economic factors to justify imposing pollutant restrictions that are *less stringent* than the applicable federal standards require. When, however, a regional board is considering whether to make the pollutant restrictions in a wastewater discharge permit *more stringent* than federal law requires, California law allows the board to take into account economic [**865] factors, including the wastewater discharger's cost of compliance. We remand this case for further proceedings to determine whether the pollutant limitations in the permits challenged here meet or exceed federal standards.

[*619] **I. Statutory Background**

The quality of our nation's waters is governed by a "complex statutory and regulatory scheme ... that implicates both federal and state administrative responsibilities." (*PUD No. 1 of Jefferson County v. Washington Department of Ecology (1994) 511 U.S. 700, 704 [128 L. Ed. 2d 716, 114 S. Ct. 1900]*.) We first discuss California law, then federal law.

A. California Law

In California, the controlling law is the Porter-Cologne Water Quality Control Act (Porter-Cologne Act), which was enacted in 1969. (*Wat. Code, § 13000 et seq.*, added by Stats. 1969, ch. 482, § 18, p. 1051.) [1] Its goal is "to attain the highest water [***307] quality which is reasonable, considering all demands being made and to be made on those waters and the total values involved, beneficial and detrimental, economic and social, tangible and intangible." (*§ 13000*.) The task of accomplishing this belongs to the State Water Resources Control Board (State Board) and the nine Regional Water Quality Control Boards; together the State Board and the regional boards comprise "the principal state agencies with primary responsibility for the coordination and control of water quality." (*§ 13001*.) As relevant here, one of those regional boards oversees the Los Angeles region (the Los Angeles Regional Board). [2]

1 Further undesignated statutory references are to the Water Code.

2 The Los Angeles water region "comprises all basins draining into the Pacific Ocean between the southeasterly boundary, located in the westerly part of Ventura County, of the watershed of Rincon Creek and a line which coincides with the southeasterly boundary of Los Angeles County from the ocean to San Antonio Peak and follows thence the divide between San Gabriel River and Lytle Creek drainages to the divide between Sheep Creek and San Gabriel River drainages." (*§ 13200, subd. (d)*.)

(1) Whereas the State Board establishes statewide policy for water quality control (*§ 13140*), the regional boards "formulate and adopt water quality control plans for all areas within [a] region" (*§ 13240*). The regional boards' water quality plans, called "basin plans," must address the beneficial uses to be protected as well as water quality objectives, and they must establish a program of implementation. (*§ 13050, subd. (j)*.) Basin plans must be consistent with "state policy for water quality control." (*§ 13240*.)

B. Federal Law

In 1972, Congress enacted amendments (Pub.L. No. 92-500 (Oct. 18, 1972) 86 Stat. 816) to the Federal Water Pollution Control Act (*33 U.S.C. § 1251 et seq.*), which, as amended in 1977, is commonly known as the *Clean* [*620] *Water Act*. The Clean Water Act is a "comprehensive water quality statute designed to 'restore and maintain the chemical, physical, and biological integrity of the Nation's waters.' " (*PUD No. 1 of Jefferson County v. Washington Dept. of Ecology, supra, 511 U.S.*

at p. 704, quoting *33 U.S.C. § 1251(a)*.) The act's national goal was to eliminate by the year 1985 "the discharge of pollutants into the navigable waters" of the United States. (*33 U.S.C. § 1251(a)(1)*.) To accomplish this goal, the act established "effluent limitations," which are restrictions on the "quantities, rates, and concentrations of chemical, physical, biological, and other constituents"; these effluent limitations allow the discharge of pollutants only when the water has been satisfactorily treated to conform with federal water quality standards. (*33 U.S.C. §§ 1311, 1362(11)*.)

(2) Under the federal Clean Water Act, each state is free to enforce its own water quality laws so long as its effluent limitations are not "less stringent" than those set out in the Clean Water Act. (*33 U.S.C. § 1370*.) This led the California Legislature in 1972 to amend the state's Porter-Cologne Act "to ensure consistency with the requirements for state programs implementing the Federal Water Pollution Control Act." (*§ 13372*.)

[**866] **(3)** Roughly a dozen years ago, the United States Supreme Court, in *Arkansas v. Oklahoma (1992) 503 U.S. 91 [117 L. Ed. 2d 239, 112 S. Ct. 1046]*, described the distinct roles of the state and federal agencies in enforcing water quality: "The Clean Water Act anticipates a partnership between the States and the Federal Government, animated by a shared objective: 'to restore and maintain the chemical, physical, and biological integrity of the Nation's waters.' *33 U.S.C. § 1251(a)*. Toward [***308] this end, [the Clean Water Act] provides for two sets of water quality measures. 'Effluent limitations' are promulgated by the [Environmental Protection Agency (EPA)] and restrict the quantities, rates, and concentrations of specified substances which are discharged from point sources.[3] See *§§ 1311, 1314*. '[W]ater quality standards' are, in general, promulgated by the States and establish the desired condition of a waterway. See *§ 1313*. These standards supplement effluent limitations 'so that numerous point sources, despite individual compliance with effluent limitations, may be further regulated to prevent water quality from falling below acceptable levels.' *EPA v. California ex rel. State Water Resources Control Bd., 426 U.S. 200, 205, n. 12 [48 L. Ed. 2d 578, 96 S. Ct. 2022, 2025, n. 12] (1976)*.

> 3 A "point source" is "any discernible, confined and discrete conveyance" and includes "any pipe, ditch, channel ... from which pollutants ... may be discharged." (*33 U.S.C. § 1362 (14)*.)

[*621] **(4)** "The EPA provides States with substantial guidance in the drafting of water quality standards. See generally 40 CFR pt. 131 (1991) (setting forth model water quality standards). Moreover, [the Clean Water Act] requires, *inter alia*, that state authorities periodically review water quality standards and secure the EPA's approval of any revisions in the standards. If the EPA recommends changes to the standards and the State fails to comply with that recommendation, the Act authorizes the EPA to promulgate water quality standards for the State. *33 U.S.C. § 1313(c)*." (*Arkansas v. Oklahoma, supra, 503 U.S. at p. 101*.)

(5) Part of the federal Clean Water Act is the National Pollutant Discharge Elimination System (NPDES), "[t]he primary means" for enforcing effluent limitations and standards under the Clean Water Act. (*Arkansas v. Oklahoma, supra, 503 U.S. at p. 101*.) The NPDES sets out the conditions under which the federal EPA or a state with an approved water quality control program can issue permits for the discharge of pollutants in wastewater. (*33 U.S.C. § 1342(a)* & *(b)*.) In California, wastewater discharge requirements established by the regional boards are the equivalent of the NPDES permits required by federal law. (*§ 13374*.)

With this federal and state statutory framework in mind, we now turn to the facts of this case.

II. Factual Background

This case involves three publicly owned treatment plants that discharge wastewater under NPDES permits issued by the Los Angeles Regional Board.

The City of Los Angeles owns and operates the Donald C. Tillman Water Reclamation Plant (Tillman Plant), which serves the San Fernando Valley. The City of Los Angeles also owns and operates the Los Angeles-Glendale Water Reclamation Plant (Los Angeles-Glendale Plant), which processes wastewater from areas within the City of Los Angeles and the independent cities of Glendale and Burbank. Both the Tillman Plant and the Los Angeles-Glendale Plant discharge wastewater directly into the Los Angeles River, now a concrete-lined flood control channel that runs through the City of Los Angeles, ending at the Pacific Ocean. The State Board and the Los Angeles Regional Board consider the Los Angeles River to be a navigable water of the United States for purposes of the federal Clean Water Act.

The third plant, the Burbank Water Reclamation Plant (Burbank Plant), is owned and operated by the City of Bur [***309] bank, serving residents and businesses within that city. The Burbank Plant discharges wastewater into the Burbank Western Wash, which drains into the Los Angeles River.

[*622] All three plants, which together process hundreds of millions of gallons of sewage [**867] each day, are tertiary treatment facilities; that is, the treated wastewater they release is processed sufficiently to be safe not only for use in watering food crops, parks,

and playgrounds, but also for human body contact during recreational water activities such as swimming.

In 1998, the Los Angeles Regional Board issued renewed NPDES permits to the three wastewater treatment facilities under a basin plan it had adopted four years earlier for the Los Angeles River and its estuary. That 1994 basin plan contained general narrative criteria pertaining to the existing and potential future beneficial uses and water quality objectives for the river and estuary. [4] The narrative criteria included municipal and domestic water supply, swimming and other recreational water uses, and fresh water habitat. The plan further provided: "All waters shall be maintained free of toxic substances in concentrations that are toxic to, or that produce detrimental physiological responses in human, plant, animal, or aquatic life." The 1998 permits sought to reduce these narrative criteria to specific numeric requirements setting daily maximum limitations for more than 30 pollutants present in the treated wastewater, measured in milligrams or micrograms per liter of effluent. [5]

4 This opinion uses the terms "narrative criteria" or descriptions, and "numeric criteria" or effluent limitations. Narrative criteria are broad statements of desirable water quality goals in a water quality plan. For example, "no toxic pollutants in toxic amounts" would be a narrative description. This contrasts with numeric criteria, which detail specific pollutant concentrations, such as parts per million of a particular substance.

5 For example, the permits for the Tillman and Los Angeles-Glendale Plants limited the amount of fluoride in the discharged wastewater to 2 milligrams per liter and the amount of mercury to 2.1 micrograms per liter.

The Cities of Los Angeles and Burbank (Cities) filed appeals with the State Board, contending that achievement of the numeric requirements would be too costly when considered in light of the potential benefit to water quality, and that the pollutant restrictions in the NPDES permits were unnecessary to meet the narrative criteria described in the basin plan. The State Board summarily denied the Cities' appeals.

Thereafter, the Cities filed petitions for writs of administrative mandate in the superior court. They alleged, among other things, that the Los Angeles Regional Board failed to comply with *sections 13241* and *13263*, part of California's Porter-Cologne Act, because it did not consider the economic burden on the Cities in having to reduce substantially the pollutant content of their discharged wastewater. They also alleged that compliance with the pollutant restrictions set out in the NPDES permits issued by the regional [*623] board would greatly increase their costs of treating the wastewater to be discharged into the Los Angeles River. According to the City of Los Angeles, its compliance costs would exceed $ 50 million annually, representing more than 40 percent of its entire budget for operating its four wastewater treatment plants and its sewer system; the City of Burbank estimated its added costs at over $ 9 million annually, a nearly 100 percent increase above its $ 9.7 million annual budget for wastewater treatment.

[***310] The State Board and the Los Angeles Regional Board responded that *sections 13241* and *13263* do not require consideration of costs of compliance when a regional board issues a NPDES permit that restricts the pollutant content of discharged wastewater.

The trial court stayed the contested pollutant restrictions for each of the three wastewater treatment plants. It then ruled that *sections 13241* and *13263* of California's Porter-Cologne Act required a regional board to consider costs of compliance not only when it adopts a basin or water quality plan but also when, as here, it issues an NPDES permit setting the allowable pollutant content of a treatment plant's discharged wastewater. The court found no evidence that the Los Angeles Regional Board had considered economic factors at either stage. Accordingly, the trial court granted the Cities' petitions for writs of mandate, and it ordered the Los Angeles Regional Board to vacate the contested restrictions on pollutants in the wastewater discharge permits issued to the three municipal plants here and to conduct hearings [**868] to consider the Cities' costs of compliance before the board's issuance of new permits. The Los Angeles Regional Board and the State Board filed appeals in both the Los Angeles and Burbank cases. [6]

6 Unchallenged on appeal and thus not affected by our decision are the trial court's rulings that (1) the Los Angeles Regional Board failed to show how it derived from the narrative criteria in the governing basin plan the specific numeric pollutant limitations included in the permits; (2) the administrative record failed to support the specific effluent limitations; (3) the permits improperly imposed daily maximum limits rather than weekly or monthly averages; and (4) the permits improperly specified the manner of compliance.

The Court of Appeal, after consolidating the cases, reversed the trial court. It concluded that *sections 13241* and *13263* require a regional board to take into account "economic considerations" when it adopts water quality standards in a basin plan but not when, as here, the regional board sets specific pollutant restrictions in wastewater discharge permits intended to satisfy those standards. We granted the Cities' petition for review.

[*624] **III. Discussion**

A. Relevant State Statutes

The California statute governing the issuance of *wastewater permits* by a regional board is *section 13263*, which was enacted in 1969 as part of the Porter-Cologne Act. (See *ante*, at p. 619.) *Section 13263* provides in relevant part: "*The regional board*, after any necessary hearing, *shall prescribe requirements as to the nature of any proposed discharge* [of wastewater]. *The requirements* shall implement any relevant water quality control plans that have been adopted, and *shall take into consideration* the beneficial uses to be protected, the water quality objectives reasonably required for that purpose, other waste discharges, the need to prevent nuisance, and *the provisions of Section 13241*." (*§ 13263, subd. (a)*, italics added.)

Section 13241 states: "Each regional board shall establish such water quality objectives in water quality control plans as in its judgment will ensure the reasonable protection of beneficial uses and the prevention of nuisance; however, it is recognized that it may be possible for the quality of water to be changed to some degree without unreasonably affecting beneficial uses. Factors to be considered by a regional board in establishing water quality objectives shall include, but not necessarily be limited to, all of the following:

[***311] "(a) Past, present, and probable future beneficial uses of water.

"(b) Environmental characteristics of the hydrographic unit under consideration, including the quality of water available thereto.

"(c) Water quality conditions that could reasonably be achieved through the coordinated control of all factors which affect water quality in the area.

"(d) *Economic considerations*.

"(e) The need for developing housing within the region.

"(f) The need to develop and use recycled water." (Italics added.)

The Cities here argue that *section 13263*'s express reference to *section 13241* requires the Los Angeles Regional Board to consider *section 13241*'s listed factors, notably "[e]conomic considerations," before issuing NPDES permits requiring specific pollutant reductions in discharged effluent or treated wastewater.

[*625] Thus, at issue is language in *section 13263* stating that when a regional board "prescribe[s] requirements as to the nature of any proposed discharge" of treated wastewater it must "take into consideration" certain factors including "the provisions of *Section 13241*." According to the Cities, this statutory language requires that a regional board make an independent evaluation of the *section 13241* factors, including "economic considerations," before restricting the pollutant content in an NPDES permit. This was the view expressed in the trial court's ruling. The Court of Appeal rejected that view. It held that a regional board need consider the *section 13241* factors only when it adopts a basin or water quality plan, but not when, as in this case, it issues a wastewater discharge [**869] permit that sets specific numeric limitations on the various chemical pollutants in the wastewater to be discharged. As explained below, the Court of Appeal was partly correct.

B. Statutory Construction

(6) When construing any statute, our task is to determine the Legislature's intent when it enacted the statute "so that we may adopt the construction that best effectuates the purpose of the law." (*Hassan v. Mercy American River Hospital (2003) 31 Cal.4th 709, 715 [3 Cal. Rptr. 3d 623, 74 P.3d 726]*; *see Esberg v. Union Oil Co. (2002) 28 Cal.4th 262, 268 [121 Cal. Rptr. 2d 203, 47 P.3d 1069]*.) In doing this, we look to the statutory language, which ordinarily is "the most reliable indicator of legislative intent." (*Hassan, supra, at p. 715*.)

(7) As mentioned earlier, our Legislature's 1969 enactment of the Porter-Cologne Act, which sought to ensure the high quality of water in this state, predated the 1972 enactment by Congress of the precursor to the federal Clean Water Act. Included in California's original Porter-Cologne Act were *sections 13263* and *13241*. *Section 13263* directs regional boards, when issuing wastewater discharge permits, to take into account various factors, including those set out in *section 13241*. Listed among the *section 13241* factors is "[e]conomic considerations." (*§ 13241, subd. (d)*.) The plain language of *sections 13263* and *13241* indicates the Legislature's intent in 1969, when these statutes were enacted, that a regional board consider the cost of compliance when setting effluent limitations in a wastewater discharge permit.

Our construction of *sections 13263* and *13241* does not end with their plain statutory language, however. We must also analyze them in the context of the statutory scheme of which they are a part. (*State Farm Mutual Automobile Ins. Co. v. Garamendi (2004) 32 Cal.4th 1029, 1043 [12* [***312] *Cal. Rptr. 3d 343, 88 P.3d 71]*.) Like *sections 13263* and *13241*, *section 13377* is part of the Porter-Cologne Act. But unlike the former two statutes, *section 13377* was [*626] not enacted until 1972, shortly after Congress, through adoption of the Federal Water Pollution Control Act Amendments,

established a comprehensive water quality policy for the nation.

(8) *Section 13377* specifies that wastewater discharge permits issued by California's regional boards must meet the federal standards set by federal law. In effect, *section 13377* forbids a regional board's consideration of any economic hardship on the part of the permit holder if doing so would result in the dilution of the requirements set by Congress in the Clean Water Act. That act prohibits the discharge of pollutants into the navigable waters of the United States unless there is compliance with federal law (*33 U.S.C. § 1311(a)*), and publicly operated wastewater treatment plants such as those before us here must comply with the act's clean water standards, regardless of cost (see *id., §§ 1311(a), (b)(1)(B)* & *(C), 1342(a)(1)* & *(3)*). **(9)** Because *section 13263* cannot authorize what federal law forbids, it cannot authorize a regional board, when issuing a wastewater discharge permit, to use compliance costs to justify pollutant restrictions that do not comply with federal clean water standards. [7] Such a construction of *section 13263* would not only be inconsistent with federal law, it would also be inconsistent with the Legislature's [**870] declaration in *section 13377* that all discharged wastewater must satisfy federal standards. [8] This was also the conclusion of the Court of Appeal. Moreover, under the *federal Constitution's supremacy clause* (art. VI), a state law that conflicts with federal law is " 'without effect.' " (*Cipollone v. Liggett Group, Inc. (1992) 505 U.S. 504, 516 [120 L. Ed. 2d 407, 112 S. Ct. 2608]*; *see Dowhal v. SmithKline Beecham Consumer Healthcare (2004) 32 Cal.4th 910, 923 [12 Cal. Rptr. 3d 262, 88 P.3d 1]*.) To comport with the principles of federal supremacy, California law cannot authorize this [*627] state's regional boards to allow the discharge of pollutants into the navigable waters of the United States in concentrations that would exceed the mandates of federal law.

7 The concurring opinion misconstrues both state and federal clean water law when it describes the issue here as "whether the Clean Water Act prevents or prohibits the regional water board from considering economic factors to justify pollutant restrictions *that meet the clean water standards in more cost-effective and economically efficient ways.*" (Conc. opn. of Brown, J., *post*, at p. 629, some italics added.) This case has nothing to do with meeting federal standards in more cost effective and economically efficient ways. State law, as we have said, allows a regional board to consider a permit holder's compliance cost to *relax* pollutant concentrations, as measured by numeric standards, for pollutants in a wastewater discharge permit. (*§§ 13241* & *13263*.) Federal law, by contrast, as stated above in the text, "prohibits the discharge of pollutants into the navigable waters of the United States unless there is compliance with federal law (*33 U.S.C. § 1311(a)*), and publicly operated wastewater treatment plants such as those before us here must comply with the [federal] act's *clean water standards, regardless of cost* (see *id., §§ 1311(a), (b)(1)(B)* & *(C), 1342(a)(1)* & *(3)*)." (Italics added.)

8 As amended in 1978, *section 13377* provides for the issuance of waste discharge permits that comply with federal clean water law "together with any more stringent effluent standards or limitations necessary to implement water quality control plans, or for the protection of beneficial uses, or to prevent nuisance." We do not here decide how this provision would affect the cost-consideration requirements of *sections 13241* and *13263* when more stringent effluent standards or limitations in a permit are justified for some reason independent of compliance with federal law.

[***313] Thus, in this case, whether the Los Angeles Regional Board should have complied with *sections 13263* and *13241* of California's Porter-Cologne Act by taking into account "economic considerations," such as the costs the permit holder will incur to comply with the numeric pollutant restrictions set out in the permits, depends on whether those restrictions meet or exceed the requirements of the federal Clean Water Act. We therefore remand this matter for the trial court to resolve that issue.

C. Other Contentions

The Cities argue that requiring a regional board at the wastewater discharge permit stage to consider the permit holder's cost of complying with the board's restrictions on pollutant content in the water is consistent with federal law. In support, the Cities point to certain provisions of the federal Clean Water Act. They cite *section 1251(a)(2) of title 33 United States Code*, which sets, as a national goal "*wherever attainable*," an interim goal for water quality that protects fish and wildlife, and *section 1313(c)(2)(A)* of the same title, which requires consideration, among other things, of waters' "*use and value* for navigation" when revising or adopting a "water quality standard." (Italics added.) These two federal statutes, however, pertain not to permits for wastewater discharge, at issue here, but to establishing water quality standards, not at issue here. Nothing in the federal Clean Water Act suggests that a state is free to disregard or to weaken the federal requirements for clean water when an NPDES permit holder alleges that compliance with those requirements will be too costly.

(10) At oral argument, counsel for amicus curiae National Resources Defense Council, which argued on behalf of California's State Board and regional water boards, asserted that the federal Clean Water Act incorporates state water policy into federal law, and that therefore a regional board's consideration of economic factors to justify greater pollutant concentration in discharged wastewater would conflict with the federal act even if the specified pollutant restrictions were not less stringent than those required under federal law. We are not persuaded. The federal Clean Water Act reserves to the states significant aspects of water quality policy (*33 U.S.C. § 1251(b)*), and it specifically grants the states authority to "enforce any effluent limitation" that is not "*less stringent*" than the federal standard (*33 U.S.C. § 1370*, italics added). It does not prescribe or restrict the factors that a state may consider when exercising this reserved authority, and thus it does not prohibit [*628] a state--when imposing effluent limitations that are *more stringent* than required by federal law--from taking into account the economic effects of doing so.

Also at oral argument, counsel for the Cities asserted that if the three municipal wastewater treatment facilities ceased releasing their treated wastewater into the concrete channel that makes up the Los Angeles River, it would (other than during the rainy season) contain no water at all, and thus would not be a "navigable water" of the [**871] United States subject to the Clean Water Act. (See *Solid Waste Agency v. United States Army Corps of Engineers (2001) 531 U.S. 159, 172 [148 L. Ed. 2d 576, 121 S. Ct. 675]* ["The term 'navigable' has at least the import of showing us what Congress had in mind as its authority for enacting the CWA: its traditional jurisdiction over waters that were or had been navigable in fact or which could reasonably be so made."].) It is unclear when the Cities first raised this issue. The Court of Appeal did not discuss it in its opinion, and the Cities did not seek rehearing on this ground. (See *Cal. Rules of Court, rule* [***314] *28(c)(2)*.) Concluding that the issue is outside our grant of review, we do not address it.

Conclusion

Through the federal Clean Water Act, Congress has regulated the release of pollutants into our national waterways. The states are free to manage their own water quality programs so long as they do not compromise the federal clean water standards. When enacted in 1972, the goal of the Federal Water Pollution Control Act Amendments was to *eliminate* by the year 1985 the discharge of pollutants into the nation's navigable waters. In furtherance of that goal, the Los Angeles Regional Board indicated in its 1994 basin plan on water quality the intent, insofar as possible, to remove from the water in the Los Angeles River toxic substances in amounts harmful to humans, plants, and aquatic life. What is not clear from the record before us is whether, in limiting the chemical pollutant content of wastewater to be discharged by the Tillman, Los Angeles-Glendale, and Burbank wastewater treatment facilities, the Los Angeles Regional Board acted only to implement requirements of the federal Clean Water Act or instead imposed pollutant limitations that exceeded the federal requirements. This is an issue of fact to be resolved by the trial court.

Disposition

We affirm the judgment of the Court of Appeal reinstating the wastewater discharge permits to the extent that the specified numeric limitations on chemical pollutants are necessary to satisfy federal Clean Water Act requirements for treated wastewater. The Court of Appeal is directed to remand this [*629] matter to the trial court to decide whether any numeric limitations, as described in the permits, are "more stringent" than required under federal law and thus should have been subject to "economic considerations" by the Los Angeles Regional Board before inclusion in the permits.

George, C. J., Baxter, J., Werdegar, J., Chin, J., and Moreno, J., concurred.

CONCUR BY: BROWN

CONCUR

BROWN, J., Concurring.--I write separately to express my frustration with the apparent inability of the government officials involved here to answer a simple question: How do the federal clean water standards (which, as near as I can determine, are the state standards) prevent the state from considering economic factors? The majority concludes that because "the *supremacy clause of the United States Constitution* requires state law to yield to federal law, a regional board, when issuing a wastewater discharge permit, may not consider economic factors to justify imposing pollutant restrictions that are *less stringent* than the applicable federal standards require." (Maj. opn., *ante*, at p. 618.) That seems a pretty self-evident proposition, but not a useful one. The real question, in my view, is whether the Clean Water Act prevents or prohibits the regional water board from considering economic factors to justify pollutant restrictions that *meet* the clean water standards in more cost-effective and economically efficient ways. I can see no reason why a federal law--which purports to be an example of cooperative federalism--would decree such a result. I do not think the majority's reasoning is at fault here. Rather, the agencies involved seemed to have worked hard to make this simple question impenetrably obscure.

A brief review of the statutory framework at issue is necessary to understand my concerns. [***315]

[**872] **I. Federal Law**

"In 1972, Congress enacted the Federal Water Pollution Control Act (*33 U.S.C. § 1251 et seq.*), commonly known as the Clean Water Act (CWA) [Citation.] ... [¶] Generally, the CWA 'prohibits the discharge of any pollutant except in compliance with one of several statutory exceptions. [Citation.]' ... The most important of those exceptions is pollution discharge under a valid NPDES [National Pollution Discharge Elimination System] permit, which can be issued either by the Environmental Protection Agency (EPA), or by an EPA-approved state permit program such as California's. [Citations.] NPDES permits are valid for five years. [Citation.] [¶] Under the CWA's NPDES permit system, the states are required to develop *water quality standards*. [Citations.] A water quality standard 'establish[es] the desired condition of a waterway.? [Citation.] A water quality standard for any [*630] given waterway, or 'water body,' has two components: (1) the designated beneficial uses of the water body and (2) the *water quality criteria* sufficient to protect those uses. [Citations.] [¶] Water quality criteria can be either *narrative* or *numeric*. [Citation.]" (*Communities for a Better Environment v. State Water Resources Control Bd. (2003) 109 Cal.App.4th 1089, 1092-1093 [1 Cal. Rptr. 3d 76]*.)

With respect to satisfying water quality standards, "a polluter must comply with *effluent limitations*. The CWA defines an effluent limitation as 'any restriction established by a State or the [EPA] Administrator on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into navigable waters, the waters of the contiguous zone, or the ocean, including schedules of compliance.' [Citation.] 'Effluent limitations are a means of *achieving* water quality standards.' [Citation.] [¶] NPDES permits establish effluent limitations for the polluter. [Citations.] CWA's NPDES permit system provides for a two-step process for the establishing of effluent limitations. First, the polluter must comply with *technology-based effluent limitations*, which are limitations based on the best available or practical technology for the reduction of water pollution. [Citations.] [¶] Second, the polluter must also comply with more stringent *water quality-based effluent limitations* (WQBEL's) where applicable. In the CWA, Congress 'supplemented the "technology-based" effluent limitations with "water quality-based" limitations "so that numerous point sources, despite individual compliance with effluent limitations, may be further regulated to prevent water quality from falling below acceptable levels." ' [Citation.] [¶] The CWA makes WQBEL's applicable to a given polluter whenever WQBEL's are 'necessary to meet water quality standards, treatment standards, or schedules of compliance, established pursuant to any State law or regulations ... .' [Citations.] Generally, NPDES permits must conform to state water quality laws insofar as the state laws impose more stringent pollution controls than the CWA. [Citations.] Simply put, WQBEL's implement water quality standards." (*Communities for a Better Environment v. State Water Resources Control Bd., supra, 109 Cal.App.4th at pp. 1093-1094*, fns. omitted.)

This case involves water quality-based effluent limitations. As set forth above, "[u]nder the CWA, states have the primary role in promulgating water quality standards." (*Piney Run Preservation Ass'n v. Commrs. of Carroll Co. (4th Cir. 2001) 268 F.3d 255, 265, fn. 9.*) "Under the CWA, the water quality standards referred to in *section 301* [see *33 U.S.C. § 1311*] are primarily the states' handiwork." [***316] (*American Paper Institute, Inc. v. U.S. Envtl. Protection Agency (D.C. Cir. 1993) 302 U.S. App. D.C. 80 [996 F.2d 346, 349]* (*American Paper*).) In fact, upon the 1972 passage of the CWA, "[s]tate water quality standards in effect at the time ... were deemed to be the initial water quality benchmarks for CWA purposes ... . The states were to revisit and, if [*631] necessary, revise those initial standards at least once every three years." (*American Paper, at p. 349.*) Therefore, "once a water quality standard has been promulgated, *section 301 of the CWA* requires all NPDES permits for point sources to incorporate discharge limitations necessary to satisfy that standard." (*American Paper, at p. 350*.) Accordingly, it appears that in most instances, [**873] state water quality standards are identical to the federal requirements for NPDES permits.

II. State Law

In California, pursuant to the Porter-Cologne Water Quality Control Act (*Wat. Code, § 13000 et seq.*; Stats. 1969, ch. 482, § 18, p. 1051; hereafter Porter-Cologne Act), the regional water quality control boards establish water quality standards--and therefore federal requirements for NPDES permits--through the adoption of water quality control plans (basin plans). The basin plans establish water quality objectives using enumerated factors--including economic factors--set forth in *Water Code section 13241*.

In addition, as one court observed: "The Porter-Cologne Act ... established nine regional boards to prepare water quality plans (known as basin plans) and issue permits governing the discharge of waste. (*Wat. Code, §§ 13100, 13140, 13200, 13201, 13240, 13241, 13243.*) The Porter-Cologne Act identified these permits as 'waste discharge requirements,' and provided that the waste discharge requirements must mandate compliance

with the applicable regional water quality control plan. (*Wat. Code, §§ 13263, subd. (a), 13377, 13374*.) [¶] Shortly after Congress enacted the Clean Water Act in 1972, the California Legislature added Chapter 5.5 to the Porter-Cologne Act, for the purpose of adopting the necessary federal requirements to ensure it would obtain EPA approval to issue NPDES permits. (*Wat. Code, § 13370, subd. (c)*.) As part of these amendments, the Legislature provided that the state and regional water boards 'shall, as required or authorized by the [Clean Water Act], issue waste discharge requirements ... which apply and ensure compliance with all applicable provisions [of the Clean Water Act], together with any more stringent effluent standards or limitations necessary to implement water quality control plans, or for the protection of beneficial uses, or to prevent nuisance.' (*Wat. Code, § 13377*.) *Water Code section 13374* provides that '[t]he term "waste discharge requirements" as referred to in this division is the equivalent of the term "permits" as used in the [Clean Water Act].' [¶] California subsequently obtained the required approval to issue NPDES permits. [Citation.] Thus, the waste discharge requirements issued by the regional water boards ordinarily also serve as NPDES permits under federal law. (*Wat. Code, § 13374*.)" (*Building Industry Assn. of San Diego County v. State Water Resources Control Bd. (2004) 124 Cal.App.4th 866, 875 [22 Cal. Rptr. 3d 128]*.)

[*632] Applying this federal-state statutory scheme, it appears that throughout this entire process, the Cities of Burbank and Los Angeles (Cities) were unable to have economic factors considered because the Los Angeles Regional Water Quality Control Board (Board)--the body responsible to enforce the statutory framework--failed to comply with its statutory mandate.

[***317] For example, as the trial court found, the Board did not consider costs of compliance when it initially established its basin plan, and hence the water quality standards. The Board thus failed to abide by the statutory requirement set forth in *Water Code section 13241* in establishing its basin plan. Moreover, the Cities claim that the initial narrative standards were so vague as to make a serious economic analysis impracticable. Because the Board does not allow the Cities to raise their economic factors in the permit approval stage, they are effectively precluded from doing so. As a result, the Board appears to be playing a game of "gotcha" by allowing the Cities to raise economic considerations when it is not practical, but precluding them when they have the ability to do so.

Moreover, the Board acknowledges that it has neglected other statutory provisions that might have provided an additional opportunity to air these concerns. As set forth above, pursuant to the CWA, "[t]he states were to revisit and, if necessary, revise those initial standards at least once every three years--a process commonly known as triennial review. [Citation.] Triennial reviews consist of public hearings in which current water quality standards are examined to assure that they 'protect the public health or welfare, enhance the quality of water and serve the purposes' of the Act. [Citation.] Additionally, the CWA directs [**874] states to consider a variety of competing policy concerns during these reviews, including a waterway's 'use and value for public water supplies, propagation of fish and wildlife, recreational purposes, and agricultural, industrial, and other purposes.' " (*American Paper, supra, 996 F.2d at p. 349*.)

According to the Cities, "[t]he last time that the narrative water quality objective for toxicity contained in the Basin Plan was reviewed and modified was 1994." The Board does not deny this claim. Accordingly, the Board has failed its duty to allow public discussion--including economic considerations--at the required intervals when making its determination of proper water quality standards.

What is unclear is why this process should be viewed as a contest. State and local agencies are presumably on the same side. The costs will be paid by taxpayers and the Board should have as much interest as any other agency in fiscally responsible environmental solutions.

[*633] Our decision today arguably allows the Board to continue to shirk its statutory duties. The majority holds that when read together, *Water Code sections 13241*, *13263*, and *13377* do not allow the Board to consider economic factors when issuing NPDES permits to satisfy federal CWA requirements. (Maj. opn., *ante*, at pp. 625-627.) The majority then bifurcates the issue when it orders the Court of Appeal "to remand this matter to the trial court to decide whether any numeric limitations, as described in the permits, are 'more stringent' than required under federal law and thus should have been subject to 'economic considerations' by the Los Angeles Regional Board before inclusion in the permits." (*Id.* at pp. 628-629.)

The majority overlooks the feedback loop established by the CWA, under which federal standards are linked to state-established water quality standards, including narrative water quality criteria. (See *33 U.S.C. § 1311 (b)(1)(C)*; *40 C.F.R. § 122.44(d)(1) (2004)*.) Under the CWA, NPDES permit requirements include the state narrative criteria, which are incorporated into the Board's basin plan under the description "no toxins in toxic amounts." As far as I can determine, NPDES permits [***318] designed to achieve this narrative criteria (as well as designated beneficial uses) will usually imple-

ment the state's basin plan, while satisfying federal requirements as well.

If federal water quality standards are typically identical to state standards, it will be a rare instance that a state exceeds its own requirements and economic factors are taken into consideration. [1] In light of the Board's initial failure to consider costs of compliance and its repeated failure to conduct required triennial reviews, the result here is an unseemly bureaucratic bait-and-switch that we should not endorse. The likely outcome of the majority's decision is that the Cities will be economically burdened to meet standards imposed on them in a highly questionable manner. [2] In these times of tight fiscal budgets, it is difficult to imagine imposing additional financial burdens on municipalities without at least allowing them to present alternative views.

1 (But see *In the Matter of the Petition of City and County of San Francisco, San Francisco Baykeeper et al.* (Order No. WQ 95-4, Sept. 21, 1995) 1995 WL 576920.)

2 Indeed, given the fact that "water quality standards" in this case are composed of broadly worded components (i.e., a narrative criteria and "designated beneficial uses of the water body"), the Board possessed a high degree of discretion in setting NPDES permit requirements. Based on the Board's past performance, a proper exercise of this discretion is uncertain.

Based on the facts of this case, our opinion today appears to largely retain the status quo for the Board. If the Board can actually demonstrate that only the precise limitations at issue here, implemented in only one way, will achieve the desired water standards, perhaps its obduracy is justified. That case has yet to be made.

[*634] Accordingly, I cannot conclude that the majority's decision is wrong. The analysis [**875] may provide a reasonable accommodation of conflicting provisions. However, since the Board's actions "make me wanna holler and throw up both my hands," [3] I write separately to set forth my concerns and concur in the judgment--*dubitante*. [4]

3 Marvin Gaye (1971) "Inner City Blues."

4 I am indebted to Judge Berzon for this useful term. (See *Credit Suisse First Boston Corp. v. Grunwald (9th Cir. 2005) 400 F.3d 1119 [2005 WL 466202]* (conc. opn. of Berzon, J.).)

The petitions of all appellants and respondent for a rehearing were denied June 29, 2005. Brown, J., did not participate therein.

VOICES OF THE WETLANDS, Plaintiff and Appellant, v. STATE WATER RESOURCES CONTROL BOARD et al., Defendants and Respondents; DUKE ENERGY MOSS LANDING, LLC, et al., Real Parties in Interest and Appellants.

S160211

SUPREME COURT OF CALIFORNIA

52 Cal. 4th 499*; *257 P.3d 81*; *128 Cal. Rptr. 3d 658*; *2011 Cal. LEXIS 8117*; *41 ELR 20268

August 15, 2011, Filed

SUBSEQUENT HISTORY: Reported at *Voices of the Wetlands v. State Water Resources Control Board (Duke Energy Moss Landing, LLC), 2011 Cal. LEXIS 8766 (Cal., Aug. 15, 2011)*
Time for Granting or Denying Rehearing Extended *Voices of the Wetlands v. California State Water Resources Control Board (Dule Energy Moss Landing, LLC), 2011 Cal. LEXIS 9394 (Cal., Sept. 12, 2011)*
Request denied by *Voices of the Wetlands v. Cal. State Water Res. Control Bd., 2011 Cal. LEXIS 10654 (Cal., Oct. 12, 2011)*

PRIOR HISTORY:
Superior Court of Monterey County, No. M54889, Robert A. O'Farrell, Judge. Court of Appeal, Sixth Appellate District, No. H028021.
Voices of the Wetlands v. California State Water Resources Control Bd., 157 Cal. App. 4th 1268, 69 Cal. Rptr. 3d 487, 2007 Cal. App. LEXIS 2024 (Cal. App. 6th Dist., 2007)

SUMMARY:

CALIFORNIA OFFICIAL REPORTS SUMMARY

Plaintiff, an environmental organization, filed an administrative mandamus action challenging a regional water board's issuance of a National Pollutant Discharge Elimination System (NPDES) permit. The NPDES permit authorized a powerplant to draw cooling water from a harbor and slough. The trial court denied the mandamus petition. (Superior Court of Monterey County, No. M54889, Robert A. O'Farrell, Judge.) The Court of Appeal, Sixth Dist., No. H028021, affirmed the trial court's judgment.

The Supreme Court affirmed the judgment of the Court of Appeal. The court concluded that the trial court did not err in using an interlocutory remand to resolve perceived deficiencies in the regional water board's best technology available (BTA) finding. In compliance with the trial court's directive, the board engaged in a full reconsideration of the BTA issue, and gave all interested parties, including plaintiff, a noticed opportunity to appear and to present evidence, briefing, and argument pertinent to the BTA determination. The court rejected plaintiff's argument that *Code Civ. Proc., § 1094.5, subd. (e)*, precluded the board from accepting and considering new evidence on remand absent a showing that such evidence could not have been produced at the original administrative proceeding, or was improperly excluded therefrom. The court further concluded that the board did not err by basing its BTA determination on a finding that the costs of alternative cooling technologies for the powerplant were wholly disproportionate to the anticipated environmental benefits. The board's use of this standard was proper. (Opinion by Baxter, J., with Cantil-Sakauye, C. J., Kennard, Werdegar, Chin, Corrigan, JJ., and Kitching, J.,* concurring. Concurring opinion by Werdegar, J., with Cantil-Sakauye, C. J., concurring (see p. 539).) [*500]

* Associate Justice of the Court of Appeal, Second Appellate District, Division Three, assigned by the Chief Justice pursuant to *article VI, section 6 of the California Constitution*.

HEADNOTES

CALIFORNIA OFFICIAL REPORTS HEADNOTES

(1) Pollution and Conservation Laws § 5--Porter-Cologne Act--NPDES Permit--Judicial Review--Administrative Mandamus.--Pursuant to the Porter-Cologne Water Quality Control Act (*Wat. Code, § 13000 et seq.*) decisions and orders of a regional water board, including the issuance and renewal of National Pollutant Discharge Elimination System permits, are reviewable by administrative appeal to the State Water Resources Control Board, and then by petition for administrative mandamus in the superior court (*Code Civ. Proc., § 1094.5*; *Wat. Code, §§ 13320, 13330*). In the mandamus proceeding, the superior court is obliged to exercise its independent judgment on the evidence before the administrative agency, i.e., to determine whether the agency's findings are supported by the weight of the evidence.

(2) Electricity, Gas, and Steam § 2--Thermal Powerplants--Siting--Expedited Processing and Review of Applications.--The Warren-Alquist State Energy Resources Conservation and Development Act (*Pub. Resources Code, § 25000 et seq.*) mandates simplified and expedited processing and review of applications to certify the siting, construction, and modification of thermal powerplants. The act accords the State Energy Resources Conservation and Development Commission the exclusive power to certify all sites and related facilities for thermal powerplants with generating capacities of 50 or more megawatts, whether a new site and related facility or a change or addition to an existing facility (*Pub. Resources Code, § 25500*). When a certification application is filed, the commission undertakes a lengthy review process that involves multiple staff assessments, communication with other state and federal regulatory agencies, environmental impact analysis, and a series of public hearings (*Pub. Resources Code, §§ 25519-25521*). With one exception, the commission may not certify a proposed facility that does not meet all applicable federal, state, regional, and local laws (*Wat. Code, § 25525*). Accordingly, the issuance of a certificate by the commission is in lieu of any permit, certificate, or similar document required by any state, local or regional agency, or federal agency to the extent permitted by federal law, for such use of the site and related facilities, and supersedes any applicable statute, ordinance, or regulation of any state, local, or regional agency, or federal agency to the extent permitted by federal law (*Wat. Code, § 25500*).

(3) Electricity, Gas, and Steam § 2--Thermal Powerplants--Certification Decision--Judicial Review.--The Warren-Alquist State Energy Resources Conservation and Development Act (*Pub. Resources Code, § 25000 et seq.*) constrains judicial review of a State Energy Resources [*501] Conservation and Development Commission powerplant certification decision. *Pub. Resources Code, § 25531, subd. (a)*, establishes that the Supreme Court alone has jurisdiction to review powerplant certification decisions by the commission.

(4) Statutes § 29--Construction--Language--Legislative Intent--Plain Meaning.--When interpreting statutes, a court begins with the plain, commonsense meaning of the language used by the Legislature. If the language is unambiguous, the plain meaning controls. Potentially conflicting statutes must be read in the context of the entire statutory scheme, so that all provisions can be harmonized and given effect.

(5) Electricity, Gas, and Steam § 2--Thermal Powerplants--Certification Decision--Judicial Review--Case or Controversy.--*Pub. Resources Code, § 25531, subd. (a)*, part of the Warren-Alquist State Energy Resources Conservation and Development Act (*Pub. Resources Code, § 25000 et seq.*), specifies the extent of the Supreme Court's exclusive direct review jurisdiction as mandated by the act. Under *§ 25531, subd. (a)*, the decisions of the State Energy Resources Conservation and Development Commission on any application for certification of a site and related facility are subject to judicial review by the Supreme Court. Read together with *§ 25531, subd. (a)*, *§ 25531, subd. (c)*, simply confirms that no other court may review directly a certification decision of the commission, or may otherwise entertain a case or controversy that attacks such a decision indirectly by raising a matter the commission determined, or could have determined, for purposes of the certification proceeding. *Section 25531* neither states nor implies a legislative intent to interfere with normal mandamus review of the actions of another agency, simply because that agency, exercising functions within its exclusive authority, has independently decided an issue the commission also must or might have addressed for its own purposes.

(6) Pollution and Conservation Laws § 5--Porter-Cologne Act--NPDES Permit--Judicial Review--Administrative Mandamus.--Under the federal Clean Water Act of 1977 (Pub.L. No. 95-217 (Dec. 27, 1977) 91 Stat. 1566), any facility that discharges wastewater into a navigable water source must have an unexpired permit, conforming to federal water quality standards, in order to do so. Only the State Water Resources Control Board or a regional water board may issue a federally compliant discharge permit; such a decision is entirely outside, and independent of, the State

Energy Resources Conservation and Development Commission's authority. Under the Porter-Cologne Water Quality Control Act (*Wat. Code, § 13000 et seq.*), judicial review of the decisions of these agencies, including those to grant or renew National Pollutant Discharge Elimination System permits, is by mandamus in the superior court. [*502]

(7) Pollution and Conservation Laws § 5--NPDES Permit--Judicial Review--Jurisdiction--Case or Controversy.--Under the Warren-Alquist State Energy Resources Conservation and Development Act (*Pub. Resources Code, § 25000 et seq.*), only the decisions of the State Energy Resources Conservation and Development Commission on any application for certification of a site and related facility are subject to exclusive review in the Supreme Court (*Pub. Resources Code, § 25531, subd. (a)*), and other courts are deprived of jurisdiction only of a case or controversy concerning a matter which was, or could have been, determined in a proceeding before the commission (*§ 25531, subd. (c)*). A National Pollutant Discharge Elimination System (NPDES) permit decision by a regional water board is not a certification decision. Conversely, under the NPDES permit program, neither certification proceedings, nor findings the commission may make in connection with such proceedings, can result in the issuance or renewal of an NPDES permit; only the State Water Resources Control Board and the regional water boards may issue or renew such permits. Hence, a challenge to the issuance or renewal of an NPDES permit is not a case or controversy concerning a matter which was, or could have been, determined by the commission.

(8) Electricity, Gas, and Steam § 2--Thermal Powerplants--Certification Decision--Judicial Review--NPDES Permit.--Nothing in the Warren-Alquist State Energy Resources Conservation and Development Act (*Pub. Resources Code, § 25000 et seq.*) states or implies that where a thermal powerplant has concurrently sought both a renewal from the Regional Water Board of its National Pollutant Discharge Elimination System permit, and a State Energy Resources Conservation and Development Commission certification to install additional generating capacity, the regional water board's decision, normally reviewable in the superior court pursuant to the Porter-Cologne Water Quality Control Act (*Wat. Code, § 13000 et seq.*) is suddenly subject to the exclusive review provisions of the Warren-Alquist Act. There is no basis for reading such a requirement into the latter statute.

(9) Administrative Law § 110--Judicial Review--Administrative Mandamus--Evidence--Remand.--Properly understood and interpreted, *Code Civ. Proc., § 1094.5, subds. (e)* & *(f)*, impose no absolute bar on the use of prejudgment limited remand procedures. Moreover, when a court has properly remanded for agency reconsideration on grounds that all, or part, of the original administrative decision has insufficient support in the record developed before the agency, the statute does not preclude the agency from accepting and considering additional evidence to fill the gap the court has identified. [*503]

(10) Administrative Law § 99--Judicial Review--Administrative Mandamus--Final Judgment.--On its face, *Code Civ. Proc., § 1094.5, subd. (f)*, indicates the form of final judgment the court may issue in an administrative mandamus action. *Section 1094.5, subd. (f)*, states that the last step the trial court must take in the proceeding is either to command the agency to set aside its decision, or to deny the writ. Nothing in *§ 1094.5, subd. (f)*, purports to limit procedures the court may appropriately employ before it renders a final judgment. Nothing in *§ 1094.5, subd. (f)*, purports to limit procedures the court may appropriately employ before it renders a final judgment. *Code Civ. Proc., § 187*, broadly provides that whenever the California Constitution or a statute confers jurisdiction on a court, all the means necessary to carry that jurisdiction into effect are also given; and in the exercise of this jurisdiction, if the course of proceeding is not specifically pointed out by the Code of Civil Procedure or the statute, any suitable process or mode of proceeding may be adopted which may appear most conformable to the spirit of the code. *Section 1094.5, subd. (f)*, does not specifically point out the prejudgment procedures to be followed in an administrative mandamus action, nor do its terms prohibit the court from adopting a suitable process or mode of proceeding when addressing the issues presented. Hence, nothing in *§ 1094.5, subd. (f)*'s language suggests an intent to limit or repeal *§ 187* for purposes of administrative mandamus actions.

(11) Administrative Law § 99--Judicial Review--Administrative Mandamus--Remand.--*Code Civ. Proc., § 1094.5, subd. (f)*, provides that, when granting mandamus relief, the court may order the reconsideration of the case in the light of the court's opinion and judgment. This clearly implies that, in the final judgment itself, the court may direct the agency's attention to specific portions of its decision that need attention, and need not necessarily require the agency to reconsider, de novo, the entirety of its prior action. That being so, no reason appears why, in appropriate circumstances, the same objective cannot be accomplished by a remand prior to judgment. Indeed, such a device, properly employed, promotes efficiency and expedition by allowing the court to retain jurisdiction in the already

pending mandamus proceeding, thereby eliminating the potential need for a new mandamus action to review the agency's decision on reconsideration.

(12) Administrative Law § 99--Judicial Review--Administrative Mandamus--Remand--Reconsideration--Due Process.--Any agency reconsideration must fully comport with due process, and may not simply allow the agency to rubberstamp its prior unsupported decision. [*504]

(13) Administrative Law § 99--Judicial Review--Administrative Mandamus--Remand--Reconsideration.--*Code Civ. Proc., § 1094.5, subd. (f)*, imposes no blanket prohibition on the appropriate use, in an administrative mandamus action, of a prejudgment remand for agency reconsideration of one or more issues pertinent to the agency's decision. (Disapproving to the extent inconsistent: *Resource Defense Fund v. Local Agency Formation Com. (1987) 191 Cal.App.3d 886 [236 Cal.Rptr. 794]*, and *Sierra Club v. Contra Costa County (1992) 10 Cal.App.4th 1212 [13 Cal.Rptr.2d 182]*.)

(14) Administrative Law § 103--Judicial Review--Administrative Mandamus--Remand--Evidence.--*Code Civ. Proc., § 1094.5, subd. (e)*, is not intended to prevent the court, upon finding that the administrative record itself lacks evidence sufficient to support the agency's decision, from remanding for consideration of additional evidence. A more reasonable interpretation, which fully honors the statutory language, is that *§ 1094.5, subd. (e)*, simply prevents a mandamus petitioner from challenging an agency decision that is supported by the administrative record on the basis of evidence, presented to the court, which could have been, but was not, presented to the administrative body.

(15) Administrative Law § 103--Judicial Review--Administrative Mandamus--Remand--Evidence.--*Code Civ. Proc., § 1094.5, subd. (e)*, merely confirms that while, in most cases, the court is limited to the face of the administrative record in deciding whether the agency's decision is valid as it stands, in fairness, the court may consider, or may permit the agency to consider, extra-record evidence for a contrary outcome, if persuaded that such evidence was not available, or was improperly excluded, at the original agency proceeding.

(16) Administrative Law § 103--Judicial Review--Administrative Mandamus--Remand--Evidence.--*Code Civ. Proc., § 1094.5, subd. (e)*, promotes orderly procedure, and the proper distinction between agency and judicial roles, by ensuring that, with rare exceptions, the court will review a quasi-judicial administrative decision on the record actually before the agency, not on the basis of evidence withheld from the agency and first presented to the reviewing court. But once the court has reviewed the administrative record, and has found it wanting, *§ 1094.5* does not preclude the court from remanding for the agency's reconsideration in appropriate proceedings that allow the agency to fill the evidentiary gap. (Disapproving to the extent inconsistent: *Ashford v. Culver City Unified School Dist. (2005) 130 Cal.App.4th 344 [29 Cal.Rptr.3d 728]*, and *Newman v. State Personnel Bd. (1992) 10 Cal.App.4th 41 [12 Cal.Rptr.2d 601]*.) [*505]

(17) Electricity, Gas, and Steam § 2--Thermal Power Plant--NPDES Permit--Best Technology Available--Alternative Cooling Technologies--Wholly Disproportionate--Standard.--In a case in which a regional water board issued a National Pollutant Discharge Elimination System permit allowing a thermal powerplant to draw cooling water from a harbor and slough, the board did not err by basing its best technology available determination on a finding that the costs of alternative cooling technologies for the powerplant were wholly disproportionate to the anticipated environmental benefits.

[*Manaster & Selmi, Cal. Environmental Law & Land Use Practice (2011) ch. 33, § 33.81*; 12 Witkin, Summary of Cal. Law (10th ed. 2005) Real Property, §§ 889, 893, 896; 8 Witkin, Cal. Procedure (5th ed. 2008) Extraordinary Writs, § 325.]

COUNSEL: Earthjustice, Mills Legal Clinic of Stanford Law School, Deborah A. Sivas, Leah J. Russin and Holly D. Gordon for Plaintiff and Appellant.

Kurt R. Wiese, Barbara Baird; Daniel P. Selmi; John J. Sansone, County Counsel (San Diego), Paula Forbis, Deputy County Counsel; Law Offices of Nancy Diamond, Nancy Diamond; Steven M. Woodside, County Counsel (Sonoma) and Cory W. O'Donnell, Deputy County Counsel, for South Coast Air Quality Management District, San Diego County Air Pollution Control District, North Coast Unified Air Quality Management District and Northern Sonoma County Air Pollution Control District as Amici Curiae on behalf of Plaintiff and Appellant.

Bill Lockyer, Edmund G. Brown, Jr., and Kamala D. Harris, Attorneys General, Gordon Burns and Manuel M. Medeiros, State Solicitors General, J. Matthew Rodriquez, Chief Assistant Attorney General, Mary E. Hackenbracht and Kathleen Kenealy, Assistant Attorneys General, John Davidson, Anita E. Ruud and Mi-

chael M. Edson, Deputy Attorneys General, for Defendants and Appellants.

Pillsbury Winthrop Shaw Pittman, Sarah G. Flanagan, John M. Grenfell and Blaine I. Green for Real Parties in Interest and Appellants.

Michael J. Levy and William M. Chamberlain for California Energy Commission as Amicus Curiae on behalf of Real Parties in Interest and Appellants.

JUDGES: Opinion by Baxter, J., with Cantil-Sakauye, C. J., Kennard, Werdegar, Chin, Corrigan, and Kitching, JJ., concurring. Concurring opinion by Werdegar, J., with Cantil-Sakauye, C. J., concurring.

OPINION BY: Baxter [*506]

OPINION

[**84] [***662] **BAXTER, J.**--Voices of the Wetlands, an environmental organization, filed this administrative mandamus action in the Monterey County Superior Court to challenge the issuance, by the California Regional Water Quality Control Board, Central Coast Region (Regional Water Board), of a federally required permit authorizing the Moss Landing Power Plant (MLPP) to draw cooling water from the adjacent Moss Landing Harbor and Elkhorn [**85] Slough. [1] The case, now more than a decade old, presents issues concerning the technological and environmental standards, and the procedures for administrative and judicial review, that apply when a thermal powerplant, while pursuing the issuance or renewal of a cooling water intake permit from a regional water board, also seeks necessary approval from another state agency, the State Energy Resources Conservation and Development Commission (Energy Commission), of a plan to add additional generating units to the plant, with related modifications to the cooling intake system.

1 In the case title in this court, and hereafter in our discussion, we refer to Voices of the Wetlands, the mandamus petitioner, as "plaintiff." (See Cal. Style Manual (4th ed. 2000) § 6:28, pp. 230-231.) The mandamus petition named as respondents the State Water Resources Control Board (State Water Board) and the Regional Water Board. In the case title in this court, and hereafter as convenient in our discussion, we refer to these parties as "defendants." (*Ibid.*) The mandamus petition also named Duke Energy North America LLC and its subsidiary, Duke Energy Moss Landing, LLC (collectively Duke), then the MLPP's owners, as real parties in interest. At some point, apparently during the appellate process, the MLPP changed ownership. The current owner is Dynegy Moss Landing LLC (Dynegy), an entity unrelated to Duke. Dynegy has filed all pleadings and briefs in this court as the MLPP's owner and as real party in interest. As Duke's successor in interest, Dynegy is entitled to continue the action in Duke's name (*Code Civ. Proc., § 368.5*), and Dynegy has not moved to substitute itself as a formally named party (see *Cal. Rules of Court, rule 8.36(a)*). Accordingly, to maintain title symmetry with the Court of Appeal decision, and to facilitate tracking and legal research by the bench, bar, and public, we have retained Duke in the case title in this court as the real parties in interest and appellants. (See Cal. Style Manual, *supra*, § 6:28, p. 230.) As the context dictates, our discussion hereafter refers variously to Duke, Dynegy, or "real party in interest" (singular or plural), or "the MLPP's owner."

Against a complex procedural backdrop, we will reach the following conclusions:

First, the superior court had jurisdiction to entertain the administrative mandamus petition here under review. We thus reject the contention of defendants and the real party in interest that, because the substantive issues plaintiff seeks to raise on review of the Regional Water Board's decision to renew the plant's cooling water intake permit were also involved in the Energy Commission's approval of the plant expansion, statutes applicable to the latter process placed exclusive review jurisdiction in this court. [*507]

Second, the trial court did not err when, after concluding that the original record before the Regional Water Board did not support the board's finding on a single issue crucial to issuance of the cooling water intake permit, the court deferred a final judgment, ordered an interlocutory remand to the board for further "comprehensive" examination of that issue, then denied mandamus after determining that the additional evidence and analysis considered by the board on remand supported the board's reaffirmed finding.

Third, recent United States Supreme Court authority confirms that, when applying federal Clean Water Act of 1977 (CWA; Pub.L. No. 95-217 (Dec. 27, 1977) 91 Stat. 1566) standards [***663] for the issuance of this permit, the Regional Water Board properly utilized cost-benefit analysis, and in particular a "wholly disproportionate" cost-benefit standard, to conclude that the MLPP's existing cooling water intake design, as upgraded to accommodate the plant expansion, "reflect[ed] the *best technology available* for minimizing adverse environmental impact." (CWA, § 316(b), codified at *33*

U.S.C. § 1326(b), italics added (hereafter CWA section 316(b)).)

We decline to address several other issues discussed by the parties. For instance, plaintiff insists the Regional Water Board violated CWA section 316(b) by approving compensatory mitigation measures--a habitat restoration program funded by the MLPP's owner--as a means of satisfying the requirement to use the best technology available (BTA). The legal issue whether section 316(b) allows such an approach is certainly significant (see *Riverkeeper, Inc. v. U.S. E.P.A. (2d Cir. 2007) 475 F.3d 83, 110* (*Riverkeeper II*); *Riverkeeper, Inc. v. U.S. E.P.A. (2d Cir. 2004) 358 F.3d 174, 189-191* (*Riverkeeper I*)), and it has not been finally resolved.

However, the trial court found, as a matter of fact, that the Regional Water Board had not directly linked the habitat restoration [**86] program to its BTA determination. The Court of Appeal concluded that the trial court's no-linkage finding had substantial evidentiary support. Here, as in the Court of Appeal, defendants and real party in interest decline to pursue the legal issue, urging only that the trial court's factual finding should not be disturbed. As so framed, the issue presented is case and fact specific, and involves no significant question of national or statewide importance. Accordingly, we exercise our discretion not to consider it. (See *Cal. Rules of Court, rule 8.516(b)(3)*.) By so proceeding, we expressly do not decide whether compensatory mitigation and habitat restoration measures can be components of BTA, and we leave that issue for another day.

Finally, in its briefs on the merits, plaintiff advances issues it did not raise in its petition for review. Plaintiff now insists the evidence in the administrative record does not support the Regional Water Board's finding that the costs [*508] of alternative cooling technologies would be "wholly disproportionate" to their environmental benefits. Plaintiff also urges that even if the board properly considered compensatory restoration measures as a means of satisfying BTA, the record does not support its determination that the habitat restoration project it approved was sufficient to offset the environmental damage caused by the MLPP's cooling system.

These issues are case and fact specific, did not factor into our decision to grant review, and do not currently appear to be matters of significant national or statewide interest. Again, therefore, we decline to address them.

Accordingly, we will affirm the judgment of the Court of Appeal.

FACTS AND PROCEDURAL BACKGROUND

The MLPP, in operation under various owners for nearly 60 years, sits at the mouth of Elkhorn Slough, an ecologically rich tidal estuary that drains into Monterey Bay between the cities of Santa Cruz and Monterey. As a thermal powerplant, the MLPP uses superheated steam to generate electricity. The plant's cooling system appropriates water from Moss Landing Harbor, and water from the adjacent slough is also drawn into the system. The MLPP has traditionally employed a once-through cooling system, in which water continuously passes from the source through the plant, then back into the source at a warmer temperature. The thermal effects of the cooling system aside, [***664] the intake current kills some aquatic and marine life by trapping larger organisms against the intake screens (impingement) and by sucking smaller organisms through the screens into the plant (entrainment). [2]

> 2 Alternative cooling technologies exist, particularly including closed-cycle and dry-cooling systems. A closed-cycle system uses a holding basin, reservoir, or tower to retain, cool, and continuously recycle a single supply of cooling water within the plant. Such a system requires renewal from an outside water source only to replace evaporation loss. Dry cooling eliminates the need for cooling water, instead employing air as the cooling medium. These designs substantially reduce or eliminate impingement and entrainment damage, as compared to a once-through water cooling system, but they may produce their own adverse environmental effects, and converting an existing powerplant from a once-through system to closed-cycle or dry-cooling technology involves significant additional expense.

Under the CWA, the MLPP must have a National Pollutant Discharge Elimination System (NPDES) permit in order to draw cooling water from the harbor and slough. The discharge of a "pollutant" from a "point source" into navigable waters may only occur under the terms and conditions of such a permit, which must be renewed at least every five years. (*33 U.S.C. §§ 1311, 1342(a), (b)*.) In California, NPDES permits, which must comply with all minimum federal clean water requirements, are issued under an EPA-approved state water quality control program administered, pursuant to the [*509] Porter-Cologne Water Quality Control Act (Porter-Cologne Act; *Wat. Code, § 13000 et seq.*), by the State Water Board and the nine regional water boards. (*Id., §§ 13372, 13377*; see *33 U.S.C. § 1342(b)*; *40 C.F.R. §§ 123.21-123.25 (2011)*; *39 Fed.Reg. 26061 (July 16, 1974)*; *54 Fed.Reg. 40664-40665 (Oct. 3, 1989)*.)

In 1999, Duke applied to the Energy Commission for approval of Duke's plan to modernize the MLPP by adding two new 530- [**87] megawatt gas-fired gener-

ators. These new units would supplement the two 750-megawatt generators, units 6 and 7, already in operation, and would replace units 1 through 5, older generators that were no longer being used. Pursuant to the Warren-Alquist State Energy Resources Conservation and Development Act (Warren-Alquist Act; *Pub. Resources Code, § 25000 et seq.*), the siting, construction, or modification of a thermal powerplant with a generating capacity in excess of 50 megawatts must be certified by the Energy Commission. (*Id., §§ 25110, 25120, 25500*.) As set forth in greater detail below, the commission's certification must be consistent with all applicable federal laws (*id., §§ 25514, subd. (a)(2), 25525*), and is "in lieu of any permit, certificate, or similar document required by any state, local or regional agency, or federal agency to the extent permitted by federal law" (*id., § 25500*).

Concurrently with its Energy Commission application, Duke applied to the Regional Water Board for renewal of its NPDES permit--which was due to expire in any event--and to include therein terms and conditions consistent with operation of the new generators. In both applications, Duke proposed various modifications to the design and operation of the existing once-through cooling system, both to accommodate the new generators, and to minimize aquatic and marine mortality resulting from cooling water intake operations. [3] However, the proposal did not contemplate [***665] conversion of the plant to either a closed-cycle or a dry-cooling system (see fn. 2, *ante*).

> 3 As the Regional Water Board's order issuing the NPDES permit explained, the MLPP had two cooling water intake stations, one which served the currently operational units 6 and 7, and the other, then inactive, which had served the retired units 1 through 5. Under the MLPP proposal, this latter station would be reactivated to serve the proposed new generators. Changes in the design and operation of the existing once-through cooling system would be employed to reduce impingement mortality, including alterations in the angles of the intake screens, the use of finer mesh on the screens, reductions in cooling water intake velocity made possible by the design of the new generators, and the elimination of a 350-foot tunnel in front of the intake screens.

In order to renew the plant's NPDES permit, the Regional Water Board was required, among other things, to determine, under section 316(b) of the CWA, that "the location, design, construction, and capacity of [the MLPP's] cooling water intake structures reflect[ed] the best technology available for minimizing adverse environmental impact [(i.e., BTA)]." (*33 U.S.C.* [*510] *§ 1326(b)*; see *id., §§ 1316(b)(1)(A), 1342(b)(1)(A)*.) In the year 2000, when the MLPP's Energy Commission and Regional Water Board applications were pending, there were no federal regulations in place directing permitting agencies how to apply the BTA standard. When lacking regulatory guidance for applying the CWA's NPDES permit standards, including section 316(b)'s BTA standard for cooling water intake structures, agencies were expected to exercise their "best professional judgment" on a case-by-case basis. (See, e.g., *Entergy Corp. v. Riverkeeper, Inc. (2009) 556 U.S. 208, 213 [173 L.Ed.2d 369, 129 S. Ct. 1498, 1503]* (*Entergy Corp.*); *National Resources Defense Council v. U.S. E.P.A. (9th Cir. 1988) 863 F.2d 1420, 1425*.)

The Energy Commission and Regional Water Board proceedings went forward concurrently, and were coordinated to a significant degree. As noted by the Court of Appeal, " 'the [Energy] Commission and the [Regional Water Board] formed a Technical Working Group (TWG) made up of representatives from various regulatory agencies, the scientific community, and Duke ... . The TWG worked to design biological resource studies and then validate the results of those studies.' "

On October 25, 2000, after full agency review and opportunity for public comment, the Energy Commission approved the application for certification and authorized construction of the MLPP modernization project. Under the federal-compliance provisions of the Warren-Alquist Act, the commission addressed the BTA issue. In this regard, the commission determined that design alternatives to Duke's proposed modifications of the MLPP's cooling intake system either would not significantly reduce environmental damage to the source of cooling water, or were economically infeasible, and that the proposed [**88] modifications represented the most effective economically feasible alternative considered. The commission thus concluded that this proposal represented BTA for purposes of section 316(b) of the CWA, though it "recommend[ed]" that, prior to each five-year renewal of the NPDES permit, the Regional Water Board require the plant's owner to provide an analysis of "alternatives and modifications to the cooling water intake system 1.) which are feasible under [the California Environmental Quality Act] and 2.) [which] could significantly reduce entrainment impacts to marine organisms."

As a separate condition of certification, the Energy Commission specified that the MLPP's owner would provide $ 7 million to fund an Elkhorn Slough watershed acquisition and enhancement project. The commission concluded that compliance with "existing and new permits, including the ... NPDES ... permit[,] will result in no significant water quality degradation." Finally, the commission entered a formal finding that the conditions of certification, if implemented, would "ensure that the

project will be designed, sited, and operated [***666] in conformity with applicable local, regional, state, and federal laws, [*511] ordinances, regulations, and standards, including applicable public health and safety standards, and air and water quality standards."

On October 27, 2000, after similar full procedures, the Regional Water Board issued its revised Waste Discharge Requirements Order No. 00-041 (Order No. 00-041), which included NPDES permit No. CA0006254, applicable to the MLPP. The stated purpose of the order was to permit, pursuant to conditions and limitations specified in the order, the "discharge of industrial process wastewater, uncontaminated cooling water and storm water from the [MLPP]."

In finding No. 48 of its order, the Regional Water Board addressed CWA section 316(b)'s BTA mandate, as required for issuance of the permit. The order recited that the powerplant "must use BTA to minimize adverse environmental impacts caused by the cooling water intake system. *If the cost of implementing any alternative for achieving BTA is wholly disproportionate to the environmental benefits to be achieved, the Board may consider alternative methods to mitigate these adverse environmental impacts. In this case the costs of alternatives to minimize entrainment impacts are wholly disproportionate to the environmental benefits.* However, Duke Energy will upgrade the existing intake structure for the new units to minimize the impacts due to impingement of larger fish on the traveling screens, and will fund a mitigation package to directly enhance and protect habitat resources in the Elkhorn Slough watershed ... ." (Italics added.)

In finding No. 49, the Regional Water Board set forth the required cooling system modifications and the environmental results to be expected therefrom. Subsequent findings detailed the features of the habitat enhancement program to be funded by a $ 7 million deposit from the powerplant's owner.

No person or entity sought administrative or judicial relief to stop or stay construction or operation of the plant additions and modifications under the terms and conditions of the Energy Commission's certification order, nor was any other form of judicial review of the commission's order pursued. The project to install the two new generating units at the MLPP, with attendant modifications to the cooling intake system, has since been constructed, and has been in operation since 2002.

Meanwhile, plaintiff did file with the State Water Board an administrative appeal of the Regional Water Board's Order No. 00-041. On June 21, 2001, the State Water Board rejected the appeal.

On July 26, 2001, plaintiff filed the instant petition for administrative mandamus (*Code Civ. Proc., § 1094.5* (*section 1094.5*)) in the Monterey [*512] County Superior Court (No. M54889). The petition claimed that the Regional Water Board had failed to comply with the CWA, in that the October 2000 NPDES permit issued to Duke did not satisfy the BTA requirement of section 316(b) of that statute. The prayer for relief asked that Order No. 00-041, issuing the permit, be set aside. However, plaintiff did not seek injunctive or other relief to halt, delay, or suspend the operative effect of the 2000 [**89] NPDES permit while the mandamus challenge was pending. [4]

> 4 The 2000 NPDES permit here at issue expired in 2005. We are advised that the MLPP's cooling system is currently operating under an administrative extension of this permit. (See *40 C.F.R. § 122.6 (2011)*.)

Defendants and real parties in interest demurred to the petition, asserting, among other [***667] things, lack of subject matter jurisdiction, in that the claims for relief concerned matters determined by the Energy Commission, whose decisions the Warren-Alquist Act insulates from review by the superior court. The commission, as amicus curiae, filed a supporting memorandum. The trial court overruled the demurrers. Duke sought a writ of mandate in the Court of Appeal, Sixth Appellate District, to challenge this decision. (*Duke Energy Moss Landing v. Superior Court*, June 12, 2002, H024416.) The Court of Appeal summarily denied mandate.

The superior court then considered plaintiff's claims on the merits. On October 1, 2002, after a hearing, the court issued its intended decision. In this tentative ruling, the court rejected finding No. 48 of the Regional Water Board's Order No. 00-041--the board's determination that the MLPP's cooling water system satisfied BTA--concluding that this finding was not supported by the weight of the evidence. The intended decision proposed to order issuance of a peremptory writ of mandate, directing the board "to conduct a thorough and comprehensive analysis of [BTA] applicable to the [MLPP]." However, the intended decision specified that "[n]othing in this decision compels an interruption in the ongoing plant operation during the ... board's review of this matter."

On October 29, 2002, after receiving initial objections from real parties in interest, the court designated the intended decision as the statement of decision and ordered plaintiff to prepare a proposed judgment for review and signature. Plaintiff submitted a proposed judgment granting a peremptory writ of mandate and setting aside the challenged NPDES permit.

Defendants and real parties in interest objected that a judgment setting aside the permit would conflict with the intended decision's proviso that no interruption in current plant operations was being ordered, and would require the Regional Water Board to start the NPDES permit process over from "square one." These parties submitted an alternative proposed judgment that [*513] granted the peremptory writ and remanded to the board "for further proceedings in [the board's] discretion that are consistent with this Judgment and the Statement of Decision," again specifying that nothing in the judgment compelled an interruption in ongoing plant operations pending the board's review.

Ultimately, on March 7, 2003, the court issued an order which (1) stated that finding No. 48 was not supported by the weight of the evidence, (2) remanded Order No. 00-041 to the Regional Water Board "to conduct a thorough and comprehensive analysis with respect to Finding No. 48," and (3) directed the board to advise the court when it had completed its proceedings on remand "so that the [c]ourt may schedule a status conference." Plaintiff's petition for mandate in the Court of Appeal, seeking to set aside the March 7, 2003, order (*Voices of the Wetlands v. Superior Court* (Apr. 18, 2003, H025844)) was summarily denied.

On remand, the Regional Water Board issued a notice soliciting written testimony, evidence, and argument from the parties--including, for this purpose, both plaintiff and the Energy Commission--as to (1) what alternatives to once-through cooling were effective to reduce entrainment, (2) the costs, feasibility, and environmental benefits of such alternatives, and (3) whether the costs of any such alternatives were wholly disproportionate to their environmental benefits. The parties, and the board's staff, thereafter submitted voluminous materials in conformity with the notice.

On May 15, 2003, the Regional Water Board held a public hearing on the issues specified in the remand order. Plaintiff [***668] participated in the hearing. The parties had the opportunity to summarize their evidence, cross-examine witnesses, and present closing arguments. Members of the public in attendance were also allowed to comment. The board members' discussion indicated a [**90] majority view that closed-cycle cooling, despite its ability to reduce entrainment, would actually have adverse effects on air and water quality and would reduce plant efficiency, and that more expensive cooling alternatives were not justified by their environmental benefits, given the overall good health of the adjacent marine habitat after 50 years of plant operations. These considerations, the board majority concluded, supported the original determination that the costs of alternatives to the MLPP's once-through cooling system were wholly disproportionate to the corresponding environmental benefits. By a four-to-one vote, the board approved a motion declaring that, for the reasons specified in the foregoing discussion, "Finding [No.] 48 in NPDES order 00041 is supported by the weight of the evidence." [*514]

Plaintiff filed an administrative appeal of the Regional Water Board's decision on remand. The State Water Board summarily denied the appeal on grounds that it failed to "raise substantial issues that are appropriate for review."

On October 15, 2003, plaintiff filed a second superior court mandate petition (*Voices of the Wetlands v. California Regional Water Quality Control Bd.* (Super. Ct. Monterey County, No. M67321)), attacking the Regional Water Board's resolution on remand on multiple grounds. On July 21, 2004, acting on the petition at issue here, No. M54889, the court issued a statement of decision resolving the postremand issues the parties had agreed remained open. In pertinent part, the court ruled that (1) the board's limitation on the scope of the remand issues complied with the court's remand order, (2) in deciding whether finding No. 48 had sufficient support, the court could consider the new evidence developed on remand, (3) plaintiff was correct that mitigation measures could not be considered in determining BTA (citing *Riverkeeper I, supra, 358 F.3d 174*), but the board had not used the $ 7 million Elkhorn Slough habitat restoration plan as a "substitute" for selecting BTA, and the board's BTA determination "[did] not rest on that plan as the basis for its [BTA] finding," and (4) the board on remand conducted "a sufficiently comprehensive analysis of the potential technological alternatives" to once-through cooling, "and the record contains a realistic basis for concluding that the existing modified [cooling] system provides [BTA] for the [MLPP]."

On August 17, 2004, the court entered judgment denying a peremptory writ of mandate in No. M54889. On the parties' stipulation, the court thereafter entered an order of dismissal with prejudice in No. M67321.

Plaintiff appealed in No. M54889, urging that the trial court erred in ordering an interlocutory remand, and in denying mandate to overturn the NPDES permit on grounds that the Regional Water Board had improperly determined BTA. Defendants and real parties in interest cross-appealed on the issue whether the superior court had jurisdiction to entertain the mandamus petition.

Meanwhile, in July 2004, the EPA finally promulgated regulations setting BTA standards for the cooling systems of existing powerplants. (*69 Fed.Reg. 41576 (July 9, 2004)*; see *40 C.F.R. § 125.90 et seq. (2011)* (Phase II regulations).) [5] As explained [***669] in greater detail below, the Phase II regulations established national performance standards based on the impinge-

ment and [*515] entrainment mortality rates to be expected from closed-cycle cooling (see fn. 2, *ante*). However, the regulations allowed existing facilities to meet those standards by alternative cooling system technologies, or, where reliance on such a technology alone was less feasible, less cost effective, or less environmentally desirable, by using restoration measures as a supplementary aid to compliance. A facility could also obtain a site-specific determination of BTA based on performance "as close as practicable" to the national standards, where, in the particular case, the costs of strict compliance would be "significantly greater" than those considered by the EPA director when formulating the regulations (the "cost-cost" alternative), or than the environmental benefits [**91] to be expected (the "cost-benefit" alternative). (*40 C.F.R. suspended § 125.94 (2011)*.)

5 The EPA had previously issued regulations governing BTA for the cooling systems of new powerplants (Phase I regulations).

In 2007, while the instant appeal was pending, the United States Court of Appeals for the Second Circuit issued its decision in *Riverkeeper II*, addressing the Phase II regulations. [6] The *Riverkeeper II* court concluded that these regulations were invalid under section 316(b) of the CWA insofar as they permitted the use of (1) cost-benefit analysis (as opposed to stricter cost-effectiveness analysis) [7] and (2) compensatory restoration measures for purposes of determining BTA. (*Riverkeeper II, supra, 475 F.3d 83, 98-105, 108-110, 114-115*.)

6 In *Riverkeeper I, supra, 358 F.3d 174*, the same court of appeals had previously considered challenges to the Phase I regulations.

7 Thus, *Riverkeeper II* concluded that CWA section 316(b)'s BTA standard does allow selection of the least costly technology "whose performance does not essentially differ from the performance of the best-performing technology whose cost the industry reasonably can bear." (*Riverkeeper II, supra, 475 F.3d 83, 101*.)

Thereafter, the Court of Appeal for the Sixth Appellate District unanimously affirmed the trial court judgment in this case. The Court of Appeal concluded that (1) the superior court properly entertained the mandamus petition; (2) the court did not err by ordering, in advance of a final judgment, an interlocutory remand to the Regional Water Board; (3) the board properly considered new evidence on remand; (4) section 316(b) of the CWA does not permit the use of compensatory restoration measures as a factor in establishing BTA (citing *Riverkeeper II*), but substantial evidence in the administrative record supports the trial court's determination that the board did not employ mitigation measures as " 'a *substitute* for selecting the best technology available' "; (5) the board could properly conclude that BTA did not require the implementation of cooling technologies whose costs were "wholly disproportionate" to their environmental benefits; and (6) the administrative record substantially supports the trial court's ultimate determination that, in the MLPP's case, the costs of alternative technologies to once-through cooling were wholly disproportionate to the expected environmental results. [*516]

Plaintiff sought review, raising three contentions: (1) section 316(b) of the CWA does not permit a cost-benefit analysis, such as the Regional Water Board's "wholly disproportionate" standard, in determining BTA; (2) the board improperly accepted compensatory restoration measures--specifically, the $ 7 million Elkhorn Slough habitat enhancement program--as a factor in achieving BTA; and (3) the trial court improperly ordered an interlocutory remand after finding insufficient evidence to support the board's BTA finding. In its answer to the petition for review, Dynegy [***670] urged that if review was granted, we should conclude the superior court lacked subject matter jurisdiction, because the BTA determination was subsumed in the Energy Commission's powerplant certification, as to which review was solely in this court.

We granted review and deferred briefing pending the United States Supreme Court's resolution of the then pending petitions for certiorari in *Riverkeeper II*. The high court subsequently granted certiorari. In April 2009, the court issued its decision in *Entergy Corp.*, resolving certain of the issues addressed by the court of appeals in *Riverkeeper II*. Our discussion below proceeds accordingly.

DISCUSSION [8]

8 The Energy Commission has filed an amicus curiae brief urging, in support of defendants and Dynegy, that the Regional Water Board's permit decision was properly reviewable only in this court. An amicus curiae brief in support of plaintiff has been jointly filed by the North Coast Unified Air Quality Management District, the Northern Sonoma County Air Pollution Control District, the South Coast Air Quality Management District, and the San Diego County Air Pollution Control District.

A. *Superior court jurisdiction.*

(1) Pursuant to the Porter-Cologne Act, decisions and orders of the Regional Water Board, including the

issuance and renewal of NPDES permits, are reviewable by administrative appeal to the State Water Board, and then by petition for administrative mandamus [**92] in the superior court. (*§ 1094.5*; *Wat. Code, §§ 13320, 13330*.) In the mandamus proceeding, the superior court is obliged to exercise its independent judgment on the evidence before the administrative agency, i.e., to determine whether the agency's findings are supported by the weight of the evidence. (*§ 1094.5, subd. (c)*; *Wat. Code, § 13330, subd. (d)*.)

Plaintiff pursued these avenues of relief. Nonetheless, defendants and Dynegy, joined by the Energy Commission as amicus curiae, urge at the outset that the superior court lacked jurisdiction to entertain plaintiff's petition for mandate in this case. The trial court and the Court of Appeal rejected this contention. We do so as well. [*517]

(2) The jurisdictional argument is based on the Warren-Alquist Act, which mandates simplified and expedited processing and review of applications to certify the siting, construction, and modification of thermal powerplants. [***671] The Warren-Alquist Act accords the Energy Commission "the exclusive power to certify all sites and related facilities" for thermal powerplants with generating capacities of 50 or more megawatts, "whether a new site and related facility or a change or addition to an existing facility." (*Pub. Resources Code, § 25500*; see also *id., §§ 25110, 25119, 25120*.) When a certification application is filed, the commission undertakes a lengthy review process that involves multiple staff assessments, communication with other state and federal regulatory agencies, environmental impact analysis, and a series of public hearings. (*Id., §§ 25519-25521*.) With an exception not relevant here, the commission may not certify a proposed facility that does not meet all applicable federal, state, regional, and local laws. (*Id., § 25525*.) Accordingly, "[t]he issuance of a certificate by the commission shall be in lieu of any permit, certificate, or similar document required by any state, local or regional agency, or federal agency to the extent permitted by federal law, for such use of the site and related facilities, and shall supersede any applicable statute, ordinance, or regulation of any state, local, or regional agency, or federal agency to the extent permitted by federal law." (*Id., § 25500*.)

(3) The Warren-Alquist Act also constrains judicial review of an Energy Commission powerplant certification decision. Between 1996 and 2001, the statute provided that review of such a decision was exclusively by a petition for writ of review in the Court of Appeal or the Supreme Court. (Pub. Resources Code, former § 25531, subd. (a); *Pub. Utilities Code, § 1759, subd. (a)*.) [9] An emergency amendment to *Public Resources Code section 25531, subdivision (a)*, effective in May 2001, establishes that this court alone now has jurisdiction to review powerplant certification decisions by the commission. (*Pub. Resources Code, § 25531, subd. (a)*, as amended by Stats. 2001, 1st Ex. Sess. 2001-2002, ch. 12, § 8, pp. 8101-8102.)

9 Adopted as part of the Public Utilities Act in 1951, *Public Utilities Code section 1759, subdivision (a)*, originally provided for exclusive Supreme Court review of the Public Utility Commission's decisions and orders. (Stats. 1951, ch. 764, § 1759, p. 2091.) *Public Resources Code section 25531, subdivision (a)*, adopted as part of the Warren-Alquist Act in 1974, originally provided that review of powerplant siting decisions by the Energy Commission would be the same as for Public Utility Commission decisions granting or denying certificates of public convenience and necessity for powerplants. (Stats. 1974, ch. 276, § 2, pp. 501, 532.) In 1996, *Public Utilities Code section 1759, subdivision (a)*, was amended to allow review of Public Utilities Commission decisions either by this court or by the Court of Appeal. (Stats. 1996, ch. 855, § 10, p. 4555.) The effect, under then unamended *Public Resources Code section 25531, subdivision (a)*, was to establish similar review for Energy Commission powerplant siting certifications.

Subdivision (c) of Public Resources Code section 25531 further provides that "[s]ubject to the right of judicial review of decisions of the [Energy] [*518] [C]ommission," as set forth in *subdivision (a)*, "no court in this state has jurisdiction to hear or determine any case or controversy concerning any matter which was, or could have been, determined in a proceeding before the commission, or to stop or delay the construction or operation of any thermal powerplant except to enforce compliance with the provisions of a decision of the commission."

Defendants and Dynegy urge as follows. Under the particular circumstances of this [**93] case, the fundamental issue presented--whether the MLPP's once-through cooling water intake system satisfied BTA for purposes of section 316(b) of the CWA--is one which "was, or could have been" (*Pub. Resources Code, § 25531, subd. (c)*), and indeed, had to be, determined in the certification proceeding before the Energy Commission. In order to certify the proposed expansion of the MLPP, the commission was required to find, and did find, that the project, including the intended modifications to the MLPP's cooling intake system, conformed to all applicable local, state, and federal laws, including section 316(b). Hence, the "case or controversy" advanced by plaintiff "concern[s] a matter" within the

commission's purview, and was thus subject to the Warren-Alquist Act's exclusive-review provisions, with which plaintiff did not comply.

Plaintiff makes the following response: Entirely aside from the plant expansion project, the MLPP cannot operate its cooling water intake system without a federally required, time-limited NPDES permit. Under both federal and state law, only the State Water Board and the regional water boards have authority in California to issue or renew such permits. Although the MLPP's NPDES permit renewal process coincided with its Energy Commission certification proceedings, and the two matters were significantly coordinated, it is the Regional Water Board's decision to renew the NPDES permit, not the Energy Commission's certification of the plant expansion, that is the subject of this "case or [***672] controversy." The Porter-Cologne Act thus provides for mandamus review by the superior court of the Regional Water Board's permit decision.

Indeed, plaintiff emphasizes, such a conclusion in this case does not thwart the Warren-Alquist Act's purpose to expedite the certification of new powerplant capacity. Plaintiff notes that it never sought to stop, delay, or suspend the construction and operation of the MLPP expansion project in conformity with the Energy Commission's certification, including the approved modifications to the cooling water intake system, and the project has long since been implemented.

(4) Applying well-established principles of statutory construction, we conclude, as did the Court of Appeal, that plaintiff has the better argument. [*519] When interpreting statutes, we begin with the plain, commonsense meaning of the language used by the Legislature. (E.g., *Ste. Marie v. Riverside County Regional Park & Open-Space Dist. (2009) 46 Cal.4th 282, 288 [93 Cal. Rptr. 3d 369, 206 P.3d 739]*.) If the language is unambiguous, the plain meaning controls. (*Ibid.*) Potentially conflicting statutes must be read in the context of the entire statutory scheme, so that all provisions can be harmonized and given effect. (*San Leandro Teachers Assn. v. Governing Bd. of San Leandro Unified School Dist. (2009) 46 Cal.4th 822, 831 [95 Cal. Rptr. 3d 164, 209 P.3d 73]*.)

Here, however, there is no actual conflict. Under the plain language of the two statutory schemes, as applicable to this case, each agency--the Regional Water Board and the Energy Commission--had exclusive jurisdiction in a discrete area of thermal powerplant operations, and a distinct provision for judicial review applied in each case. Under the Warren-Alquist Act, the commission had sole authority to certify, i.e., to grant general permission for, the MLPP's proposal to install and operate additional generating capacity, and to modify other plant systems as necessary to accommodate this expansion. There is no question, under the unambiguous language of the Warren-Alquist Act, that the commission's certification order was subject to judicial review in this court alone. Plaintiff did not seek judicial review of the commission's certification decision, and that determination has long since become final and binding.

However, as defendants and Dynegy concede, regardless of any plans for new generating capacity that might involve the Energy Commission, a federal law, the CWA, obliged the MLPP to have in effect at all times a valid NPDES permit in order to cycle cooling water from Elkhorn Slough and Moss Landing Harbor in and out of the plant. The Porter-Cologne Act assigns the exclusive authority to issue, renew, and modify such permits to the State Water Board and the regional water boards. This statute further [**94] plainly specifies that these agencies' decisions are reviewable by mandamus in the superior court. Plaintiff mounted such a judicial challenge to the NPDES permit renewal granted to the MLPP by the Regional Water Board.

Defendants and Dynegy note that the Warren-Alquist Act requires the Energy Commission, before issuing a powerplant certification, to find conformity with all "applicable local, regional, state, and federal standards, ordinances, or laws." (*Pub. Resources Code, § 25523, subd. (d)(1)*; see also *id., § 25514, subd. (a)(2).*) Hence, these parties insist, the issue underlying this litigation--whether the MLPP's cooling water intake system, with its proposed modifications, satisfied BTA for purposes of the CWA--is a "matter" which, in this particular instance, "was, or could have been, determined" by the Energy Commission (*Pub. Resources Code, § 25531, subd. (c)*) [***673] as a [*520] necessary component of its decision to certify the plant expansion. Accordingly, the argument runs, only this court had "jurisdiction to hear or determine any case or controversy concerning [that] matter." (*Ibid.*)

We are not persuaded. When the judicial review provisions of the Warren-Alquist Act, as set forth in *Public Resources Code section 25531*, are read in context, the meaning of *subdivision (c)*'s critical phrase "any case or controversy concerning any matter which [***674] was, or could have been, determined in a proceeding before the [Energy] [C]ommission" is unmistakably clear.

(5) We must analyze the words of *subdivision (c) of Public Resources Code section 25531* in conjunction with *subdivision (a)* of the same section. *Subdivision (a)* specifies the extent of this court's exclusive direct review jurisdiction as mandated by the Warren-Alquist Act. Under *subdivision (a)*, "[t]he decisions of the [Energy] [C]ommission *on any application for certification of a*

site and related facility are subject to judicial review by the Supreme Court of California." (Italics added.) Read together with *subdivision (a)*, *subdivision (c)* simply confirms that no other court may review directly a *certification decision* of the commission, or may otherwise entertain a "case or controversy" that attacks *such a decision* indirectly by raising a "matter" the commission determined, "or could have ... determined," *for purposes of* the certification proceeding. *Section 25531* neither states nor implies a legislative intent to interfere with normal mandamus review of the actions of *another* agency, simply because that agency, exercising functions within *its* exclusive authority, has independently decided an issue the commission also must or might have addressed for its own purposes.

The Energy Commission did find, in connection with the MLPP's certification application, that the cooling system modifications proposed in connection with the expansion project satisfied the CWA's BTA requirement. But the commission made this finding only to support its decision, under the Warren-Alquist Act, to certify the proposed expansion. If plaintiff had challenged this certification on grounds the commission's BTA finding was improper, the "case or controversy concerning [that] matter" (*Pub. Resources Code, § 25531, subd. (c)*) could only have proceeded in accordance with the Warren-Alquist Act.

However, despite the interagency cooperation on the MLPP's expansion application, and the agencies' agreement that the plant's cooling system satisfied BTA, the fact remains that only the Regional Water Board had authority, under the Porter-Cologne Act, and by EPA approval for purposes of the CWA, to determine the BTA issue *as necessary for renewal of the plant's federally required NPDES permit*. [*521]

[***675] Defendants and Dynegy concede this exclusive administrative authority of the Regional Water Board. Nonetheless, they imply that the board's BTA finding was ratified, adopted, and subsumed in the Energy Commission's certification decision. Such is not the case. By law, each agency made an independent BTA determination, based on its distinct and separate regulatory function. Had the two agencies disagreed about BTA, the Energy Commission might still have been able to certify the plant expansion, but it could not have overruled or countermanded a decision by the Regional Water Board to deny or condition an NPDES permit renewal [**95] on grounds the plant's cooling system did not satisfy BTA.

It follows that, by attacking only the Regional Water Board's decision to renew the plant's federally required NPDES permit, plaintiff has not raised a "case or controversy concerning any matter which was, or could have been, determined in a proceeding before the [Energy] [C]ommission." (*Pub. Resources Code, § 25531, subd. (c)*.) Hence, plaintiff's lawsuit, limited to an examination of the propriety of the permit renewal, is not affected by the judicial review provisions of the Warren-Alquist Act.

Defendants and Dynegy point out that under the Warren-Alquist Act, "[t]he issuance of a certificate by the [Energy] [C]ommission" for the siting, construction, or expansion of a thermal powerplant "shall be in lieu of any permit, certificate, or similar document required by any state, local or regional agency, or federal agency to the extent permitted by federal law, for such use of the site and related facilities, and shall supersede any applicable statute, ordinance, or regulation of any state, local, or regional agency, or federal agency to the extent permitted by federal law." (*Pub. Resources Code, § 25500*.) Under this provision, a commission certification clearly supplants and supersedes all state, county, district, and city permits and approvals that would otherwise be required for the siting, construction, and expansion of a thermal powerplant.

(6) But *Public Resources Code section 25500* acknowledges, as it must, the supremacy of *federal* law. Under the CWA, a federal statute, any facility that discharges wastewater into a navigable water source, as the MLPP has always done, must have an unexpired permit, conforming to federal water quality standards, in order to do so. Pursuant to the regulatory approval of a "federal agency," the EPA, only the State Water Board or a regional water board may issue a federally compliant discharge permit; such a decision is entirely outside, and independent of, the Energy Commission's authority. Under the Porter-Cologne Act, judicial review of the decisions of these agencies, including those to grant or renew NPDES permits, is by mandamus in the superior court. [*522]

Defendants and Dynegy nonetheless insist that the NPDES permit at issue here is a *state*, not a federal, permit, as to which federal law requires no particular avenue of review beyond minimum standards of due process. Hence, these parties urge, the state agency's decision is entirely subject, within the limits of due process, to the state's own preferences for judicial review. Accordingly, they assert, California may conclude, and has concluded, that when the issuance of a wastewater discharge permit is linked to a powerplant certification proceeding, the Warren-Alquist Act's "one-stop shopping" requirement of exclusive review by this court prevails over the review provisions that would otherwise apply, under the Porter-Cologne Act, to decisions of the State Water Board and the regional water boards.

The contention lacks merit. It is true, as these parties observe, that the CWA does not directly delegate to a

state agency the authority to administer the federal clean water program; instead, it allows the EPA director to "suspend" operation of the federal permit program in individual states in favor of EPA-approved permit systems that operate under those states' own laws in lieu of the federal framework. (*33 U.S.C. § 1342(b)*; see *Shell Oil Co. v. Train (9th Cir. 1978) 585 F.2d 408, 410*.) But the distinction is of little moment for our purposes. The state-administered program must conform to federal standards, and it must be approved by a federal agency, the EPA. In California, the EPA has approved a program under which the federally required permits are issued and renewed, not by the Energy Commission, but solely by the State Water Board and the regional water boards. (*54 Fed.Reg. 40664-40665 (Oct. 3, 1989)*; *39 Fed.Reg. 26061 (July 16, 1974)*; *Wat. Code, § 13377*.)

(7) Defendants and Dynegy suggest that, even if this is so, federal law does not prohibit resort to the Warren-Alquist Act's restrictive provisions for judicial review in cases where, as here, a proceeding for issuance or renewal of an NPDES permit coincides with a powerplant certification proceeding before the Energy Commission. Perhaps not. But under the Warren-Alquist Act itself, only "[t]he decisions of the [Energy] [C]ommission [**96] *on any application for certification of a site and related facility*" are subject to exclusive review in this court (*Pub. Resources Code, § 25531, subd. (a)*, italics added), and other courts are deprived of jurisdiction only of a "case or controversy concerning [a] matter which *was, or could have been*, determined in a proceeding before the commission" (*id., subd. (c)*, italics added).

As we have seen, an NPDES permit decision by a regional water board is not an Energy Commission certification decision. Conversely, under California's EPA-approved NPDES permit program, neither commission certification proceedings, nor findings the commission may make in connection with such proceedings, can result in the issuance or renewal of an NPDES permit; only [*523] the State Water Board and the regional water boards may issue or renew such permits. Hence, a challenge to the issuance or renewal of an NPDES permit is not a "case or controversy concerning [a] matter which was, or could have been, determined" by the commission. (*Pub. Resources Code, § 25531, subd. (c)*.)

(8) Nothing in the Warren-Alquist Act states or implies that where a powerplant has concurrently sought both a renewal from the Regional Water Board of its NPDES wastewater discharge permit, and an Energy Commission certification to install additional generating capacity, the regional water board's decision, normally reviewable in the superior court pursuant to the Porter-Cologne Act, is suddenly subject to the exclusive-review provisions of the Warren-Alquist Act. We see no basis for reading such a requirement into the latter statute. [10]

10 Dynegy alludes to the portion of *Public Resources Code section 25531, subdivision (c)* which states that "[s]ubject to the right of judicial review [in this court] of decisions of the [Energy] [C]ommission, no court ... has jurisdiction ... to *stop or delay* the construction *or operation* of any thermal powerplant except to enforce compliance with ... a decision of the commission." (Italics added.) Dynegy implies that because the superior court was thus deprived of authority to enforce any NPDES permit ruling it might make by "stop[ping] or delay[ing]" the wastewater discharge "operation[s]" of the MLPP, it must therefore have been deprived of all jurisdiction to entertain a challenge to the ruling. Like the Court of Appeal, we conclude we need not, and we do not, directly address whether the superior court had "stop or delay" authority, because no such stoppage or delay was sought or ordered in this case. But we do have serious doubts about Dynegy's premise. We have explained that under federal and California water quality laws, all industrial facilities, including thermal powerplants, that discharge wastewater into navigable water sources may only do so under the terms of valid NPDES permits. The State Water Board and the regional water boards have exclusive authority and responsibility to issue, renew, and administer such permits, and a powerplant certification by the Energy Commission cannot operate "in lieu" (*Pub. Resources Code, § 25500*) of a properly issued, federally required NPDES permit. Review of a decision of the State Water Board or a regional water board is by mandamus in the superior court, which court, upon proper evidence and findings, may command the agency to "set aside [its] order or decision," and direct the agency "to take such further action as is specially enjoined upon it by law." (*Code Civ. Proc., § 1094.5, subd. (f)*.) Of course, the agency's compliance with such an order withdraws the federal and state legal authority for the plant's wastewater discharge "operation[s]." Moreover, if the State Water Board or a regional water board perceives a "threatened or continuing" violation of the permit provisions, it may require the Attorney General to seek direct injunctive relief against the violator. (*Wat. Code, § 13386*.)

Construed literally, the no "stop or delay" provision of *Public Resources Code section 25531, subdivision (c)*, would entirely swallow these provisions as applied to thermal

> powerplants; it would *never* allow a superior court to prevent the illegal wastewater activities of such a plant "except to enforce compliance with ... a decision of *the* [*Energy*] [*C*]*ommission*"--an agency which, *even in connection with a powerplant certification*, has no direct authority over wastewater discharge violations, or the issuance, renewal, or administration of NPDES permits.
>
> Fairly read in context, and properly harmonized with the requirements of federal and state water quality laws, the cited portion of *Public Resources Code section 25531, subdivision (c)*, like the rest of the section, operates only with respect to "decisions" *properly within the purview of the Energy Commission*, i.e., powerplant certifications. The subdivision precludes any court except this court from "stop[ping] or delay[ing]" the "operation" of a thermal powerplant insofar as such "operation" is authorized by the Energy Commission's decision, under the Warren-Alquist Act, to certify the plant's siting, construction, or expansion.

[*524]

[***676] Defendants and Dynegy stress that the purposes of the Warren-Alquist Act, including its "one stop" permit process and its provision for exclusive judicial review, are to [**97] consolidate the state's regulation of electrical generation and transmission facilities, and to expedite the operative effect of powerplant certifications by the Energy Commission. (See, e.g., *Pub. Resources Code, § 25006*; *County of Sonoma v. State Energy Resources Conservation etc. Com. (1985) 40 Cal.3d 361, 368 [220 Cal. Rptr. 114, 708 P.2d 693]*; *Public Utilities Com. v. Energy Resources Conservation & Dev. Com. (1984) 150 Cal. App. 3d 437, 453 [197 Cal. Rptr. 866]*.) Superior court jurisdiction in this case, they urge, defeats these statutory aims.

However, as we have explained, a federal law, the CWA, requires all industrial facilities, including thermal powerplants, that discharge wastewater into navigable water sources to have in effect unexpired NPDES permits authorizing such discharge. This requirement is independent of the Energy Commission's certification, under California law, of an application to locate, construct, or expand such a powerplant. As defendants and Dynegy concede, a state statute, the Porter-Cologne Act--specifically approved by the federal agency responsible for authorizing state administration of the CWA's requirements--assigns the issuance and renewal of NPDES permits exclusively to the State Water Board and the regional water boards. Although the Energy Commission must make a general finding, before issuing a powerplant certification, that the project conforms to all applicable local, regional, state, and federal laws, such a certification cannot contravene, subsume, encompass, supersede, substitute for, or operate in lieu of, the federally required NPDES permit.

The Porter-Cologne Act provides that review of NPDES permit decisions by the State Water Board or the regional water boards is in the superior court. No provision of either the Porter-Cologne Act or the Warren-Alquist Act states or suggests that these review provisions are altered simply because an NPDES permit issuance or renewal proceeding took place concurrently, or in connection, with a certification proceeding for the same powerplant. Hence, we have no basis to conclude that the purposes of the Warren-Alquist Act are impaired by recognizing superior court jurisdiction under the circumstances of this case.

For these reasons, we conclude that the superior court had subject matter jurisdiction of the instant mandamus proceeding. [*525]

[***677] B. *Interlocutory remand.*

Plaintiff urges that under *section 1094.5*, once the trial court found insufficient evidence to support the Regional Water Board's finding No. 48 (the BTA finding), the court had no choice but to render a final mandamus judgment directing the board to set aside its Order No. 00-041, renewing the MLPP's wastewater discharge permit. The court thus erred, plaintiff insists, when it instead (1) retained jurisdiction pending an interlocutory remand to the board for reconsideration of finding No. 48; (2) allowed the board to take new evidence and reaffirm its finding; then (3) denied mandamus relief after concluding that the administrative record, as augmented on remand, supported the board's determination. We conclude that no error occurred.

Plaintiff bases its argument on two portions of *section 1094.5--subdivisions (e)* and *(f)*. *Subdivision (e)* provides that "[w]here the court finds that there is relevant evidence that, in the exercise of reasonable diligence, could not have been produced or that was improperly excluded at the hearing before [the agency], it may enter judgment as provided in *subdivision (f)* remanding the case to be reconsidered in the light of that evidence; or, in cases in which the court is authorized by law to exercise its independent judgment on the evidence, the court may admit the evidence at the hearing on the writ without remanding the case." *Subdivision (f)* states that "[t]he court shall enter judgment either commanding respondent [(the agency)] to set aside the order or decision, or denying the writ. Where the judgment commands that the order or decision be set aside, it may order the reconsideration of the case in the light of the court's opinion and judgment ... ."

Read together, plaintiff asserts, these provisions establish that the court (1) may order the administrative agency to reconsider its decision only as part of a final judgment [**98] granting a writ of mandate; (2) in such event, must specify that the entire "case" be reconsidered; and (3) may allow the agency, upon reconsideration, to accept and consider new evidence *only* when such evidence (a) could not earlier have been produced before the agency with due diligence or (b) was improperly excluded at the initial administrative hearing.

As plaintiff observes, defendants and Dynegy do not claim that the evidence the court found wanting was unavailable at the time of the Regional Water Board's proceedings, or that the agency improperly rejected an attempt to present such evidence. Hence, plaintiff urges, upon concluding that the board's BTA finding was not supported by the weight of the evidence then contained in the administrative record, the trial court was required to enter a final judgment granting the requested writ of mandamus and overturning the agency's permit renewal order in its entirety. [*526]

(9) We conclude, however, that, properly understood and interpreted, *subdivisions (e)* and *(f) of section 1094.5* impose no absolute bar on the use of prejudgment limited remand procedures such as the one employed here. Moreover, when a court has properly remanded for agency reconsideration on grounds that all, or part, of the original administrative decision has insufficient support in the record developed before the agency, the statute does not preclude the agency from accepting and considering additional evidence to fill the gap the court has identified.

(10) To determine the meaning of these provisions, we must first examine their words, which have remained unchanged since *section 1094.5* was adopted over six decades ago. (Stats. 1945, ch. 868, § 1, pp. 1636-1637.) The statutory language simply does not support the arbitrary and restrictive [***678] [***679] construction plaintiff advocates. On its face, *subdivision (f) of section 1094.5* indicates the form of *final judgment* the court may issue in an administrative mandamus action. Unremarkably, *subdivision (f)* states that the last step the trial court shall take in the proceeding is either to command the agency to set aside its decision, or to deny the writ. The trial court here followed that mandate; it issued a final judgment denying a writ of mandamus.

As defendants and Dynegy observe, nothing in *subdivision (f) of section 1094.5* purports to limit procedures the court may appropriately employ *before* it renders a final judgment. A more general statute covers that subject. *Code of Civil Procedure section 187*, adopted in 1872, broadly provides that whenever the Constitution or a statute confers jurisdiction on a court, "all the means necessary to carry it [(that jurisdiction)] into effect are also given; and in the exercise of this jurisdiction, if the course of proceeding *be not specifically pointed out* by this Code or the statute, *any suitable process or mode of proceeding may be adopted* which may appear most conformable to the spirit of this Code." (Italics added.)

Subdivision (f) of section 1094.5 does not "specifically point[] out" the prejudgment procedures to be followed in an administrative mandamus action, nor do its terms prohibit the court from "adopt[ing]" a "suitable process or mode of proceeding" when addressing the issues presented. (*Code Civ. Proc., § 187.*) Hence, we find nothing in *subdivision (f)*'s language that suggests an intent to limit or repeal *Code of Civil Procedure section 187* for purposes of administrative mandamus actions. (See, e.g., *Ste. Marie v. Riverside County Regional Park & Open-Space Dist., supra, 46 Cal.4th 282, 296* [implied repeals disfavored].)

Extrinsic aids to interpretation do not persuade us otherwise. The limited available legislative history of *section 1094.5* does not suggest the Legislature's intent to limit the application of *Code of Civil Procedure section 187*, [*527] as it might appropriately apply in administrative mandamus actions, or to categorically confine the mandamus court only to postjudgment remands. (See, e.g., Cal. Dept. of Justice, Inter-Departmental Communication to Governor re Sen. Bill No. 736 (1945 Reg. Sess.) June 7, 1945, pp. 1-3; Legis. Counsel, Rep. on Sen. Bill No. 736 (1945 Reg. Sess.) June 9, 1945, pp. 1-2.)

Decisions have long expressed the assumption that the court in a mandamus action has [**99] inherent power, in proper circumstances, to remand to the agency for further proceedings prior to the entry of a final judgment. (See, e.g., *No Oil, Inc. v. City of Los Angeles (1974) 13 Cal.3d 68, 81 [118 Cal. Rptr. 34, 529 P.2d 66]* (*No Oil*) [professing no "question" of trial court's power in traditional mandamus to order interlocutory remand to agency for clarification of findings]; *Keeler v. Superior Court (1956) 46 Cal.2d 596, 600 [297 P.2d 967]* [noting there is "no question" of a court's power under *Code Civ. Proc., § 187* to remand, prior to a final mandamus judgment, for further necessary and appropriate agency proceedings; "aside from" court's power under *§ 1094.5* to enter judgment remanding for consideration of evidence not available, or improperly excluded, in original agency proceeding, "such a power to remand" prior to judgment "also exists under the inherent powers of the court"]; *Garcia v. California Emp. Stab. Com. (1945) 71 Cal. App. 2d 107, 114 [161 P.2d 972]* [in original mandamus action, Court of Appeal, without issuing final judgment, remanded for further agency proceedings after finding that evidence in administrative record was insufficient to support denial of unemployment [***680] benefits].)

In *Rapid Transit Advocates, Inc. v. Southern Cal. Rapid Transit Dist. (1986) 185 Cal. App. 3d 996 [230 Cal. Rptr. 225]* (*Rapid Transit Advocates*), an administrative mandamus action governed by *section 1094.5*, the Court of Appeal, citing *No Oil* and *Keeler*, expressly upheld the trial court's order continuing the trial and remanding for clarification of the agency's findings. (*Rapid Transit Advocates, supra, at pp. 1002-1003*.)

We perceive no compelling reason why the Legislature would have wished to categorically bar interlocutory remands in administrative mandamus actions. Though its arguments have varied somewhat, we understand plaintiff to raise two basic objections to such a procedure.

First, plaintiff insists, the purpose of an administrative mandamus suit is to determine, once and for all, whether an agency has acted "without, or in excess of jurisdiction," in that the agency "has not proceeded in the manner required by law, the order or decision is not supported by the findings, or the findings are not supported by the evidence." (*§ 1094.5, subd. (b)*.) If the agency's action, as originally presented for review, is found defective by these standards, plaintiff urges, that action must simply be set aside, and the administrative process--assuming further proceedings are appropriate at all--must begin anew. Plaintiff contends the instant trial court violated these [*528] principles by withholding final judgment on the validity of the Regional Water Board's NPDES permit determination while allowing the agency to reconsider, and justify, a single finding the court had deemed insufficiently supported.

Second, plaintiff seems to suggest, a limited prejudgment remand raises the danger of a sham proceeding, in which interested parties are denied the opportunity to argue or present evidence, and the agency simply concocts a post hoc rationalization for the decision it has already made. Such concerns appear paramount in two Court of Appeal decisions that expressly disagreed with *Rapid Transit Advocates, supra, 185 Cal. App. 3d 996*, and broadly asserted that *section 1094.5* bars interlocutory, as opposed to postjudgment, remands in administrative mandamus proceedings. (*Sierra Club v. Contra Costa County (1992) 10 Cal.App.4th 1212, 1220-1222 [13 Cal. Rptr. 2d 182]*; *Resource Defense Fund v. Local Agency Formation Com. (1987) 191 Cal. App. 3d 886, 898-900 [236 Cal. Rptr. 794]* (*Resource Defense Fund*).)

(11) But considerations of fairness and proper agency decisionmaking do not justify the absolute prohibition for which plaintiff argues. Significantly, *subdivision (f) of section 1094.5* provides that, when granting mandamus relief, the court may "order the reconsideration of the case *in the light of the court's opinion and judgment*." (Italics added.) This clearly implies that, in the final judgment itself, the court may direct the agency's attention to specific portions of its decision that need attention, and need not necessarily require the agency to reconsider, de novo, the entirety of its prior action. That being so, no reason appears why, in appropriate circumstances, the same objective [**100] cannot be accomplished by a remand prior to judgment. Indeed, such a device, properly employed, promotes efficiency and expedition by allowing the court to retain jurisdiction in the already pending mandamus proceeding, thereby eliminating the potential need for a new mandamus action to review the agency's decision on reconsideration.

(12) We agree with plaintiff, and with the courts in *Sierra Club v. Contra Costa County* and *Resource Defense Fund*, that any agency reconsideration must fully comport with due process, and may not simply allow the agency to rubberstamp [***681] its prior unsupported decision. Indeed, the judgments in *Sierra Club v. Contra Costa County* and *Resource Defense Fund* could have been based solely on the conclusions of the Courts of Appeal in those cases that the particular agency decisions on remand suffered from such flaws. [11]

11 Thus, in *Resource Defense Fund*, a case involving the California Environmental Quality Act (CEQA), the trial court ordered an interlocutory remand to allow a city council to supply *missing* findings in support of an annexation approval. The order simply provided that the court would enter judgment after the council's action, or the expiration of 60 days. The Court of Appeal noted that this sparse and abbreviated procedure raised "serious questions of due process: it effectively precluded any possible challenge to the sufficiency of the evidence to support the new findings" and "fostered a *post hoc* rationalization ... ." (*Resource Defense Fund, supra, 191 Cal. App. 3d 886, 900*.) In *Sierra Club v. Contra Costa County*, the trial court determined that an environmental impact report (EIR), required by CEQA, was inadequate because it failed to fully analyze, and the county board of supervisors had thus failed to fully consider, less environmentally damaging alternatives to a massive residential development approved by the board. The court nonetheless denied the mandamus relief requested by opponents of the development, " 'with the exception that the County should administratively make further findings on alternatives.' " (*Sierra Club v. Contra Costa County, supra, 10 Cal.App.4th 1212, 1216*.) The board then adopted supplemental findings. Promptly thereafter, the court found the EIR, as so augmented, to be " 'legally adequate in all respects,' " whereupon the court discharged the alternative writ and entered judgment for the county. (*Id., at pp. 1216-1217*.) Besides finding

> that this procedure did not satisfy the specific requirements of CEQA, the Court of Appeal stressed that, as was the case in *Resource Defense Fund*, the trial court's procedure raised serious questions of due process by insulating the board's supplemental findings "from any meaningful challenge." (*Sierra Club v. Contra Costa County, supra, at p. 1221*.)

[*529]

However, a limited interlocutory remand raises no greater inherent danger in these regards than does a final judgment ordering limited reconsideration, as expressly authorized by *subdivision (f) of section 1094.5*. No fundamental concerns about fair, sound, and complete agency decisionmaking impose the need for a categorical bar on such prejudgment remands.

(13) Accordingly, we are persuaded that *subdivision (f) of section 1094.5* imposes no blanket prohibition on the appropriate use, in an administrative mandamus action, of a prejudgment remand for agency reconsideration of one or more issues pertinent to the agency's decision. We reject plaintiff's contrary argument. To the extent the Courts of Appeal in *Resource Defense Fund* and *Sierra Club v. Contra Costa County* concluded otherwise, we will disapprove those decisions.

We are further convinced that the interlocutory remand in this case was not employed, or conducted, improperly. Under the circumstances presented, the trial court's choice to utilize this device was eminently practical. Plaintiff's mandamus petition challenged only a single, discrete facet of the lengthy and complex NPDES permit order--the order's treatment of the BTA issue. The trial court ultimately concluded that a single finding on this issue--finding No. 48--lacked evidentiary and analytic support. Confronted with this situation, the trial court reasonably concluded it need not, and should not, enter a final judgment vacating the entire permit pending further consideration of that issue.

Such a judgment, even if it included an order narrowing the issues, would have required a new permit proceeding and, most likely, a new mandamus action to review the resulting decision. In the interim, the MLPP's authority to use the cooling system essential to its electrical generation operations [*530] would be cast in [***682] doubt. Instead, the court reasonably decided it could achieve the necessary further examination of the BTA issue by postponing a final judgment pending [**101] the Regional Water Board's focused reconsideration of that matter. The court thus properly exercised its inherent authority to adopt a "suitable process or mode of proceeding" in aid of its jurisdiction. (*Code Civ. Proc., § 187*.)

Moreover, unlike the procedures at issue in *Resource Defense Fund* and *Sierra Club v. Contra Costa County*, the instant remand was not unfair, and it produced no mere post hoc rationalization by the agency. On the contrary, in compliance with the trial court's directive, the Regional Water Board engaged in a full reconsideration of the BTA issue, and gave all interested parties, including plaintiff, a noticed opportunity to appear and to present evidence, briefing, and argument pertinent to the BTA determination.

Nor was the Regional Water Board's finding on remand insulated from meaningful review. Plaintiff was able to pursue, and did pursue, its statutory right to seek an administrative appeal of the board's BTA finding on remand, and then was allowed, in the resumed judicial proceedings, a full opportunity to dispute the foundation for that finding.

For all these reasons, we find no error in the trial court's use of an interlocutory remand to resolve perceived deficiencies in the Regional Water Board's BTA finding.

We similarly reject plaintiff's argument that *subdivision (e) of section 1094.5* precluded the Regional Water Board from accepting and considering new evidence on remand absent a showing that such evidence could not have been produced at the original administrative proceeding, or was improperly excluded therefrom. We do not read *subdivision (e)* to impose such a limitation under the circumstances presented here.

As explained above, *subdivision (e) of section 1094.5* provides that "[w]here the court finds that there *is relevant evidence*" (italics added) which could not with reasonable diligence have been produced, or was improperly excluded, in the administrative proceeding, the court may remand the case "to be reconsidered in the light of *that evidence*." (Italics added.) To the extent this language is ambiguous, plaintiff extracts the most radical interpretation--that when a court, for whatever reason, directs or authorizes the agency to reconsider its prior decision, in whole or in part, the agency is always confined to the evidence it previously received, with the exception of evidence the court determines was unavailable, or wrongly excluded, in the original administrative proceeding.

But the precise circumstances of this case illustrate why plaintiff's construction makes little sense. The instant trial court found that the Regional [*531] Water Board's finding No. 48 was *not sufficiently supported* by the original administrative record. The only possible cure for such a deficiency is the agency's reconsideration of its decision *on the basis of additional evidence*. Plaintiff's construction of *subdivision (e) of section 1094.5* would categorically preclude the court, except in narrow cir-

cumstances, from authorizing the agency to reach a better considered and better supported result *on a sufficient record*. Unless those narrow exceptions applied, any reconsideration at all would thus simply be futile; the very flaw the court had found could not be remedied.

Yet *section 1094.5* contains no other indication that the Legislature intended such a constraint on the scope of an agency reconsideration directed or authorized by the court. Indeed, *subdivision (f)* broadly provides that when the court directs the agency decision to be set aside, it "may order the reconsideration of the case in the [***683] light of the court's opinion and judgment ... but the judgment shall not limit or control in any way the discretion legally vested in the [agency]." The implication is plain that if, as here, the court finds the administrative record *insufficient* to support the original agency determination, it may order reconsideration *in the light of that judicial finding*--i.e., a reconsideration in which the agency may entertain all the additional evidence necessary to support its new decision.

Moreover, had the instant trial court simply vacated the Regional Water Board's issuance of the NPDES permit in this case, the MLPP's owner could, should, and would simply have commenced a new permit proceeding before the board. Plaintiff does not suggest that, in such a new proceeding, the [**102] board would be limited to the evidence it had considered before, plus only previously unavailable or improperly excluded evidence. On the contrary, the board would have been empowered to receive and consider, de novo, all evidence pertinent to its decision whether to issue the requested permit. Accordingly, there is no reason to conclude the board lacks such authority when directed or ordered by the court to reconsider an insufficiently supported decision.

Albeit with little analysis, a number of decisions have expressed the unremarkable principle that, when an agency determination is set aside for *insufficiency of the evidence* in the administrative record, the proper course is to remand to the agency for further appropriate proceedings--presumably the agency's consideration of additional evidence as the basis for its decision on reconsideration. (See, e.g., *Fascination, Inc. v. Hoover (1952) 39 Cal.2d 260, 268 [246 P.2d 656]*; *La Prade v. Department of Water & Power (1945) 27 Cal.2d 47, 53 [162 P.2d 13]*; *Carlton v. Department of Motor Vehicles (1988) 203 Cal. App. 3d 1428, 1434 [250 Cal. Rptr. 809]*.) [*532]

(14) Accordingly, we are persuaded that *section 1094.5, subdivision (e)* is not intended to prevent the court, upon finding that the administrative record itself *lacks* evidence sufficient to support the agency's decision, from remanding for consideration of additional evidence. A more reasonable interpretation, which fully honors the statutory language, is that *subdivision (e)* simply prevents a mandamus petitioner from challenging an agency decision that *is* supported by the administrative record on the basis of evidence, presented to the court, which could have been, but was not, presented to the administrative body.

This interpretation adheres most closely to the literal words of *section 1094.5, subdivision (e)*. As noted, the subdivision provides that when the court determines there "is relevant evidence" meeting the statutory criteria, it may remand to the agency for consideration of "that evidence," or, in cases where the court is authorized to weigh the evidence independently, the court may "admit *the evidence*" (italics added) in the judicial proceeding itself. Read most naturally, this language contemplates a situation in which a party to the mandamus action has actually proffered to the court specific evidence not included in the administrative record. *Subdivision (e)* provides that the court may remand for agency consideration of *such evidence*, or may consider the evidence itself, only if *that evidence* could not reasonably have been presented, or was improperly excluded, at the administrative proceeding.

(15) Thus, *subdivision (e) of section 1094.5* merely confirms that while, in most cases, the court is limited to the face of the administrative record in deciding whether the agency's decision is valid as it stands, in fairness, the court may consider, or may permit the agency to consider, extra-record evidence for a contrary outcome, if persuaded that such evidence was not [***684] available, or was improperly excluded, at the original agency proceeding. (See *No Oil, supra, 13 Cal.3d 68, 79, fn. 6* [in administrative mandamus action, "the court reviews the administrative record, receiving additional evidence only if that evidence was unavailable at the time of the administrative hearing, or improperly excluded from the record"].)

The limited available legislative history of Senate Bill No. 736 (1945 Reg. Sess.), in which *section 1094.5* was adopted, is consistent with this view. The Department of Justice advised the Governor that the bill was designed to settle areas of confusion which had arisen about judicial review of administrative decisions, and would, as "a most important consideration, ... permit the court to remand administrative proceedings for further consideration by the administrative agency in cases where relevant evidence was not available or was wrongfully excluded from the administrative hearings *so that the administrative agency, rather than the court, may finally determine the whole proceeding and the court may in turn actually review the administrative* [*533] *action. The latter consideration accords both to the administrative agency and the reviewing court their primary functions and the opportunity of carrying out the*

legislative intent in authorizing the administrative agency to conduct and determine its own proceedings." (Cal. [**103] Dept. of Justice, Inter-Departmental Communication to Governor re Sen. Bill No. 736 (1945 Reg. Sess.) June 7, 1945, p. 1, italics added.)

This explanation indicates an intent to provide that where the reviewing court learns of evidence the agency should have considered, but did not or could not do so for reasons beyond the control of the participants in the administrative proceeding, the court may give the agency, the appropriate primary decision maker, the opportunity to include this evidence in its determination, subject to the court's limited review of the resulting administrative record for abuse of discretion. Nothing suggests, on the other hand, that the court is powerless to allow reconsideration by the agency, with such additional evidence as the agency may find appropriate, when the court finds, in the first instance, that there is not enough evidence in the original administrative record to support the agency's decision.

The decisional law also generally supports our conclusion. Courts have most frequently applied *subdivision (e) of section 1094.5* simply to determine whether and when an agency decision may be challenged on mandamus with evidence outside the administrative record. [12] On the other [***685] hand, our research has disclosed only two decisions holding or suggesting that *section 1094.5* [*534] precludes a remand for new evidence when, as happened here, the trial court finds that the existing administrative record simply fails to support the agency's original determination.

12 E.g., *Sierra Club v. California Coastal Com. (2005) 35 Cal.4th 839, 863 [28 Cal. Rptr. 3d 316, 111 P.3d 294]* (in administrative mandamus action challenging coastal zone permit, evidence proffered by mandamus petitioner, which was not part of administrative record, that coastal commission members did not personally review final EIR before granting permit, could not be considered); *State of California v. Superior Court (1974) 12 Cal.3d 237, 257 [115 Cal.Rptr. 497, 524 P.2d 1281]* (in administrative mandamus action challenging coastal zone permit, mandamus petitioner was not entitled to propound interrogatories to determine whether coastal commission denied fair hearing by receiving, and relying upon, secret prehearing testimony by commission staff); *Eureka Citizens for Responsible Government v. City of Eureka (2007) 147 Cal.App.4th 357, 366-367 [54 Cal. Rptr. 3d 485]* (in administrative mandamus action by neighborhood organization challenging city's allowance of nonconforming school playground, court could not consider mandamus petitioner's proffer of correspondence to and from city officials, not included in administrative record, as evidence of school's " 'ongoing land use violations' "); *Pomona Valley Hospital Medical Center v. Superior Court (1997) 55 Cal.App.4th 93, 101-109 [63 Cal. Rptr. 2d 743]* (under *§ 1094.5, subd. (e)*, discovery to obtain evidence that administrative hearing was not fair is permissible only if evidence sought is relevant and could not, with reasonable diligence, have been presented in administrative proceeding); *Fort Mojave Indian Tribe v. Department of Health Services (1995) 38 Cal.App.4th 1574, 1591-1598 [45 Cal. Rptr. 2d 822]* (expression of expert opinion that postdates administrative proceeding is not truly "new" evidence of "emergent facts" which would justify remand, at mandamus petitioner's behest, under *§ 1094.5, subd. (e)*); *Elizabeth D. v. Zolin (1993) 21 Cal.App.4th 347, 355-357 [25 Cal. Rptr. 2d 852]* (in administrative mandamus action challenging suspension of driver's license on ground of licensee's seizure disorder, mandamus petitioner could obtain remand to Department of Motor Vehicles (DMV) under *§ 1094.5, subd. (e)* for consideration of physician's declaration, which postdated DMV hearing, that disorder was being well controlled by medication); *Armondo v. Department of Motor Vehicles (1993) 15 Cal.App.4th 1174, 1180 [19 Cal. Rptr. 2d 399]* (in mandamus action challenging administrative suspension of driver's license based on breathalyzer results, court properly excluded, absent showing that *§ 1094.5, subd. (e)* exception applied, petitioner's proffered evidence that local crime laboratory was not licensed to use particular breathalyzer model); *Toyota of Visalia, Inc. v. New Motor Vehicle Bd. (1987) 188 Cal. App. 3d 872, 881-882 [233 Cal. Rptr. 708]* (car dealer seeking mandamus review of administrative discipline could introduce evidence outside administrative record on issue of appropriate penalty only if such evidence could not, with reasonable diligence, have been presented in administrative proceeding); *Windigo Mills v. Unemployment Ins. Appeals Bd. (1979) 92 Cal. App. 3d 586, 596-597 [155 Cal. Rptr. 63]* (administrative mandamus petitioner may introduce evidence beyond administrative record if such evidence relates to events that postdate agency proceeding); see also *Western States Petroleum Assn. v. Superior Court (1995) 9 Cal.4th 559, 564 [38 Cal. Rptr. 2d 139, 888 P.2d 1268]* (evidence outside administrative record was not admissible in traditional mandamus action to determine, under *Pub. Resources*

Code, § 21168.5, a provision of CEQA, whether the agency's decision constituted a " 'prejudicial abuse of discretion,' " either because the agency " '[did] not proceed[] in a manner required by law,' " or because its decision was not supported by " 'substantial evidence' ").

Thus, in *Ashford v. Culver City Unified School Dist. (2005) 130 Cal.App.4th 344 [29* [**104] *Cal. Rptr. 3d 728]* (*Ashford*), the Court of Appeal held that except under the circumstances specifically set forth in *subdivision (e) of section 1094.5*, there was no ground for a remand to give a public employer a second chance to provide additional evidence in support of the original, inadequately founded, administrative decision to terminate an employee. (*Ashford, supra, at pp. 350-354*.) Similarly, in *Newman v. State Personnel Bd. (1992) 10 Cal.App.4th 41 [12 Cal. Rptr. 2d 601]* (*Newman*), the Court of Appeal concluded that the trial court erred when, after finding insufficient evidence in the administrative record to support the medical termination of a California Highway Patrol (CHP) employee, the court remanded for further proceedings. In the Court of Appeal's view, *subdivision (f) of section 1094.5* prevented a remand for agency reconsideration when the agency had failed to reach a result substantially supported by the evidence. The Court of Appeal stated that the CHP had failed in its burden to prove grounds for the employee's dismissal, and was "not now entitled to a second opportunity to establish its case." (*Newman, supra, at p. 49*.)

Ashford and *Newman* illustrate circumstances in which due process principles entirely separate from *section 1094.5* may preclude successive administrative proceedings. It may well be, as *Ashford* and *Newman* suggested, that there should be no second chance to muster sufficient evidence [***686] to impose administrative sanctions on a fundamental or vested right, such as the right against dismissal from tenured public employment except upon good cause. [*535]

But we find no such categorical bar in *section 1094.5* itself. The quasi-judicial administrative proceedings governed by this statute include a wide variety of matters, including applications for permits and licenses, that have nothing to do with disciplinary or punitive sanctions. Here, as plaintiff concedes, even if the instant trial court had vacated the MLPP's NPDES permit renewal for lack of evidence, the plant could, should, and would have begun anew the process for obtaining this permit, essential to the continuation of its electrical generation operations. In this new proceeding, the Regional Water Board could, should, and would have considered all evidence relevant to its permit decision, regardless of whether that evidence had been presented in the prior proceeding. No reason appears to construe *section 1094.5* to preclude such new evidence when the court, having found insufficient record support for the agency's decision, remands for reconsideration of that matter.

(16) In sum, *section 1094.5, subdivision (e)*, promotes orderly procedure, and the proper distinction between agency and judicial roles, by ensuring that, with rare exceptions, the court will review a quasi-judicial administrative decision on the record actually before the agency, not on the basis of evidence withheld from the agency and first presented to the reviewing court. But once the court has reviewed the administrative record, and has found it wanting, *section 1094.5* does not preclude the court from remanding for the agency's reconsideration in appropriate proceedings that allow the agency to fill the evidentiary gap. To the extent the analyses in *Ashford* and *Newman* are inconsistent with these conclusions, we will disapprove those decisions.

Here, the trial court found that the administrative record did not support one finding by the agency in support of its issuance of a permit essential to the permittee's operations. Hence, the court acted properly by remanding to the agency for additional evidence and analysis on this issue. No error occurred.

C. *"Best technology available" under CWA section 316(b).*

As indicated, finding No. 48 of the Regional Water Board's order issuing the MLPP's 2000 NPDES permit renewal addressed the requirement, under CWA section 316(b), that "the location, design, construction, and capacity of cooling water intake structures reflect the best technology available for minimizing adverse environmental impact." (*33 U.S.C. § 1326(b)*.) In this regard, the board determined that "[i]f the cost of implementing any alternative for achieving BTA is wholly disproportionate to the environmental benefits to be achieved, the Board may consider alternative [**105] methods to mitigate these adverse environmental impacts." The board further found that, though the MLPP's existing once-through cooling system would be modified and upgraded in certain respects to minimize adverse impacts on aquatic life, [*536] proposed alternatives to this basic system were "wholly disproportionate to the environmental benefits." After complying, on remand, with the superior court's directive to analyze the available technologies more closely, the board confirmed finding No. 48, and the superior court denied mandamus.

As we have noted, shortly before the superior court issued its final judgment, the EPA promulgated the Phase II regulations applying CWA section 316(b)'s BTA standard to *existing* electric powerplants. [***687] (*69 Fed.Reg., supra, p. 41576*; *40 C.F.R. § 125.90 et seq. (2011)*.) The Phase II regulations did not follow the approach of the Phase I regulations, which had required

new powerplants either to adopt closed-cycle cooling systems or to achieve comparable environmental performance--i.e., up to 98 percent reductions in impingement and entrainment mortality relative to typical once-through systems. (*69 Fed.Reg., supra, pp. 41576, 41601, 41605*.) The EPA declined to impose such a stringent requirement on existing powerplants because it concluded that conversion to closed-cycle systems was impossible or economically impracticable for many existing facilities, that such conversions could have adverse impacts on the environment and on the plants' production and consumption of energy, and that other, less costly technologies could approach the environmental benefits of closed-cycle systems. (*Id., at p. 41605*.)

Instead, therefore, the Phase II regulations set national performance standards requiring an existing facility to reduce impingement and entrainment mortality rates by 60 to 95 percent compared to the rates estimated to arise from a typical once-through system at the site. (*40 C.F.R. suspended §§ 125.93, 125.94(b)(1), (2) (2011)*.) The regulations provided alternative means of achieving compliance, based on a range of available technologies the EPA had determined were "commercially available and economically practicable." (*69 Fed.Reg., supra, pp. 41576, 41602*.)

The Phase II regulations also allowed a powerplant to seek and receive a site-specific variance from the standards. Such a variance could be obtained by establishing that the plant's costs of literal compliance would be "significantly greater" than (1) the costs the EPA had considered in setting the performance standards or (2) "the benefits of complying" with the standards. (*40 C.F.R. suspended § 125.94(a)(5)(i), (ii) (2011)*.) If a variance was granted, the plant would be required to employ remedial measures that yielded results "as close as practicable to the applicable performance standards." (*Ibid.*)

While the instant appeal was pending, the Second Circuit addressed the Phase II regulations in *Riverkeeper II*. The federal court held that while section 316(b) of the CWA allows consideration of extreme forms of economic burden or unfeasibility, the Phase II regulations were invalid under [*537] section 316(b) insofar as, among other things, they determined BTA, or allowed such a site-specific determination, based on mere cost-benefit analysis--i.e., a simple comparison between the expense of a particular cooling system technology and its expected environmental benefits. (*Riverkeeper II, supra, 475 F.3d 83, 98-105, 114-115*.) Nonetheless, the Court of Appeal in this case subsequently upheld the Regional Water Board's "wholly disproportionate" determination, concluding that it was not foreclosed by *Riverkeeper II*.

On review in this court, plaintiff, relying heavily on *Riverkeeper II*, renewed its argument that the Regional Water Board had employed a cost-benefit analysis forbidden by CWA section 316(b). At the time we granted review, petitions for certiorari were pending in *Riverkeeper II*. The United States Supreme Court thereafter granted certiorari and rendered its decision in *Entergy Corp. Entergy Corp.* reversed *Riverkeeper II*, unequivocally holding that "the EPA *permissibly* relied on cost-benefit analysis in setting the national performance standards and in providing for cost-benefit variances from those standards as part of the Phase II regulations. The Court of Appeals' reliance in part on the agency's use of cost-benefit [**106] analysis in invalidating the site-specific cost-benefit variance provision [citation] [***688] was therefore in error, as was its remand of the national performance standards for clarification of whether cost-benefit analysis was impermissibly used [citation]." (*Entergy Corp, supra, 556 U.S. 208, 226 [129 S. Ct. 1498, 1510]*, italics added.)

In our view, this holding clearly disposes of plaintiff's general claim that CWA section 316(b) prohibited the Regional Water Board from premising its BTA finding on a comparison of costs and benefits. Though the Regional Water Board's 2000 decision to renew the MLPP's NPDES permit preceded the Phase II regulations, and was not based upon them, there is no reason to assume the Regional Water Board, using its "best professional judgment" in the preregulatory era, was forbidden to apply a form of analysis the United States Supreme Court has determined was properly employed in subsequent regulations interpreting the statute at issue.

Moreover, a portion of the majority's opinion in *Entergy Corp.*, though dictum, undermines plaintiff's further contention that the particular cost-benefit standard employed by the Regional Water Board--i.e., whether the costs of alternatives to the MLPP's once-through cooling system were "wholly disproportionate" to the expected environmental benefits--was improper.

In his concurring and dissenting opinion in *Entergy Corp.*, Justice Breyer had asserted that, while he agreed some form of cost-benefit analysis was [*538] permissible under CWA section 316(b), the EPA had failed to explain why, in the Phase II regulations, it had abandoned its traditional "wholly disproportionate" standard in favor of one allowing site-specific variances where the costs of compliance were merely " 'significantly greater' " than the anticipated benefits to the environment. (*Entergy Corp., supra, 556 U.S. 208, 236 [129 S. Ct. 1498, 1515]* (conc. & dis. opn. of Breyer, J.).)

In response, the majority noted that the issue raised by Justice Breyer had no bearing on the basic permissibility of cost-benefit analysis, "the only question pre-

sented here." Nonetheless, the majority remarked, "It seems to us ... that the EPA's explanation was ample. [The EPA] explained that the 'wholly out of proportion' standard was inappropriate for the existing facilities subject to the Phase II rules because those facilities lack 'the greater flexibility available to new facilities for selecting the location of their intakes and installing technologies at lower costs relative to the costs associated with retrofitting existing facilities,' and because 'economically impracticable impacts on energy prices, production costs, and energy production ... could occur if large numbers of Phase II existing facilities incurred costs that were more than "significantly greater" than but not "wholly out of proportion" to the costs in the EPA's record.' [Citation.]" (*Entergy Corp., supra, 556 U.S. 208, 222, fn. 8 [129 S. Ct. 1498, 1510, fn. 8]*.)

(17) The clear implication is that the "wholly disproportionate" standard of cost-benefit analysis--the very standard employed by the Regional Water Board in this case--is *more stringent* than section 316(b) of the CWA requires for existing powerplants such as the MLPP. Rather, the *Entergy Corp.* majority suggested, the EPA was free, having "ampl[y]" explained and justified its choice, to select for such facilities a more lenient "significantly greater" standard of economic and environmental practicality. Under these circumstances, we discern no basis to hold that the board erred by basing its BTA determination on a finding that the costs of alternative cooling technologies for the MLPP were "wholly disproportionate" to the anticipated environmental benefits. We conclude [***689] that the board's use of this standard was proper. [13]

13 Following the *Riverkeeper II* decision, the EPA withdrew the Phase II regulations (*72 Fed.Reg. 37107-37109 (July 9, 2007)*), and they have not been reissued. We have taken judicial notice that in May 2010, seeking to fill the regulatory vacuum, the State Water Board adopted a Statewide Water Quality Control Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling (2010 Power Plant Cooling Policy). Under this policy, the State Water Board, rather than the regional water boards, will issue all NPDES permits to affected powerplants. Thermal powerplants with once-through cooling systems will be required, by specified compliance dates, to reduce intake flow rates to mandated levels, or to adopt other operational and/or structural controls to achieve commensurate reductions in impingement and entrainment mortality. In the interim, affected plants must adopt mitigating measures to control impingement and entrainment damage.

Several powerplant owners, including Dynegy, have filed a petition for mandate challenging the 2010 Power Plant Cooling Policy. (*Genon Energy, Inc. v. State Water Resources Control Board* (Super. Ct. Sacramento County, Oct. 27, 2010, No. 2010-80000701).)

[*539]

[**107] **DISPOSITION**

The Court of Appeal's judgment is affirmed. To the extent the Court of Appeal decisions in *Ashford v. Culver City Unified School Dist., supra, 130 Cal.App.4th 344*, *Sierra Club v. Contra Costa County, supra, 10 Cal.App.4th 1212*, *Newman v. State Personnel Bd., supra, 10 Cal.App.4th 41*, and *Resource Defense Fund v. Local Agency Formation Com., supra, 191 Cal. App. 3d 886*, are inconsistent with the views expressed herein, those decisions are disapproved.

Cantil-Sakauye, C. J., Kennard, J., Werdegar, J., Chin, J., Corrigan, J., and Kitching, J.,* concurred.

* Associate Justice of the Court of Appeal, Second Appellate District, Division Three, assigned by the Chief Justice pursuant to *article VI, section 6 of the California Constitution*.

CONCUR BY: Werdegar

CONCUR

WERDEGAR, J., Concurring.--I fully concur in the majority opinion. I write separately only to point out a limitation on the scope of our decision today.

The majority correctly holds that *Code of Civil Procedure section 1094.5*, governing the procedure to be followed in adjudicating petitions for writ of administrative mandate, does not preclude a trial court from ordering an interlocutory remand requiring agency reconsideration of one or more specific findings or decisions; nor is the agency precluded, under this statute, from considering new evidence on such a remand. (Maj. opn., *ante*, at pp. 529-530.) Because the remand order at issue in this case related to compliance with a provision of the federal Clean Water Act of 1977 (*33 U.S.C. § 1326(b)*) rather than to compliance with the California Environmental Quality Act (CEQA; *Pub. Resources Code, § 21000 et seq.*), the majority has no occasion here to consider whether a trial court may, similarly, order remand for reconsideration of an agency decision for compliance with CEQA without issuing a writ of mandate.

Public Resources Code section 21168.9, subdivision (a) provides that if a court finds a public agency's finding or decision to have been made in violation of CEQA, "the court shall enter an order that includes one or more

of the following" mandates. The statute specifically outlines the scope of the mandate to be issued, including as necessary that the agency void its findings [*540] and decisions, take any actions required to come into compliance with CEQA, and in the meantime suspend any part of the project at issue that might cause an adverse environmental effect. (*Pub. Resources Code, § 21168.9, subd. (a)(1)-(3).*) [***690] Balancing these commands with protections against an overbroad writ, the statute limits the order to "only those mandates which are necessary to achieve compliance with this division and only those specific project activities in noncompliance with this division," provided the noncomplying portion of the decision or finding is severable from the complying portion. (*Id., subd. (b).*) The order is to be made by "peremptory writ of mandate," and the trial court is to retain jurisdiction "by way of a return to the peremptory writ" to ensure agency compliance. (*Ibid.*)

Consequently, while CEQA challenges are often brought through a petition for administrative mandate under *Code of Civil Procedure section 1094.5*, CEQA contains its own detailed and balanced remedial scheme, offering protections for both agencies and those challenging agency action under CEQA. I do not read the majority's analysis of the administrative mandate procedure in this non-CEQA case as speaking to the procedures to be followed when an agency's action is found to have violated CEQA.

Cantil-Sakauye, C. J., concurred.

BUILDING INDUSTRY ASSOCIATION OF SAN DIEGO COUNTY et al., Plaintiffs and Appellants, v. STATE WATER RESOURCES CONTROL BOARD et al., Defendants and Respondents; SAN DIEGO BAYKEEPER et al., Interveners and Respondents.

D042385

COURT OF APPEAL OF CALIFORNIA, FOURTH APPELLATE DISTRICT, DIVISION ONE

124 Cal. App. 4th 866*; *22 Cal. Rptr. 3d 128*; *2004 Cal. App. LEXIS 2073*; *2004 Cal. Daily Op. Service 10694*; *2004 Daily Journal DAR 14492*; *34 ELR 20149

December 7, 2004, Filed

NOTICE:

As modified Jan. 4, 2005. [***1] CERTIFIED FOR PARTIAL PUBLICATION [1]

1 Pursuant to *California Rules of Court, rule 976.1*, this opinion is certified for publication with the exception of Discussion parts III, IV, V, VI and VII.

SUBSEQUENT HISTORY: Modified by, Rehearing denied by *Building Industry Assn. v. State Water Resources Control Bd., 2005 Cal. App. LEXIS 7 (Cal. App. 4th Dist., Jan. 4, 2005)*
Time for Granting or Denying Review Extended *Building Industry Assn. of San Diego v. Calif Regional Water Qlty Bd., 2005 Cal. LEXIS 2502 (Cal., Feb. 24, 2005)*
Review denied by, Request denied by *Building Industry Association of San Diego County v. California Regional Water Quality Control Board, 2005 Cal. LEXIS 3489 (Cal., Mar. 30, 2005)*

PRIOR HISTORY: Superior Court of San Diego County, No. GIC 780263, Wayne L. Peterson, Judge.

DISPOSITION: Affirmed.

SUMMARY:

CALIFORNIA OFFICIAL REPORTS SUMMARY

A building industry association filed an administrative appeal with the State Water Resources Control Board regarding the board's issuance of a comprehensive municipal storm sewer permit. The board denied the appeal. The association then petitioned for a writ of mandate, asserting numerous claims. Three environmental groups intervened as defendants. The trial court found the association failed to prove its claims. The association argued that the permit violated federal law because it allowed the state water board and a regional water board to impose municipal storm sewer control measures more stringent than a federal standard known as "maximum extent practicable" under *33 U.S.C. § 1342(p)(3)(B)(iii)*. (Superior Court of San Diego County, No. GIC 780263, Wayne L. Peterson, Judge.)

The Court of Appeal affirmed. The court held the language of *§ 1342(p)(3)(B)(iii)* communicates the basic principle that the Environmental Protection Agency, and or a state approved to issue a National Pollution Discharge Elimination System (NPDES) permit, retains the discretion to impose "appropriate" water pollution controls in addition to those that come within the definition of "maximum extent practicable." The NPDES permit did not violate federal law. The water boards had the authority to include a permit provision requiring compliance with the more stringent state water quality standards. (Opinion by Haller, J., with Benke, Acting P. J., and Aaron, J., concurring.) [*867]

HEADNOTES

CALIFORNIA OFFICIAL REPORTS HEADNOTES
Classified to California Digest of Official Reports

(1) Pollution and Conservation Laws § 5--Water Pollution--Clean Water Act--Regulatory Permit--Municipal Storm Sewer Control Measures.--A regulatory permit issued by the State Water Resources Control Board allowing it and a regional water board to impose municipal storm sewer control measures more stringent than a federal standard known as "maximum extent practicable," set forth in *33 U.S.C. § 1342(p)(3)(B)(iii)*, did not violate federal law.

[4 Witkin, Summary of Cal. Law (9th ed. 1987) Real Property, § 69.]

(2) Pollution and Conservation Laws § 5--Water Pollution--Clean Water Act--NPDES Permits.--The *Clean Water Act (33 U.S.C. 1251 et seq.)* employs the basic strategy of prohibiting pollutant emissions from "point sources" unless the party discharging the pollutants obtains a National Pollution Discharge Elimination System (NPDES) permit. Pursuant to *33 U.S.C. § 1311(a)*, it is unlawful for any person to discharge a pollutant without obtaining a permit and complying with its terms. Pursuant to *33 U.S.C. § 1342(a)* and *(b)* an NPDES permit is issued by the Environmental Protection Agency or by a state that has a federally-approved water quality program. Pursuant to *40 C.F.R. §§ 124.3*, *124.6*, *124.8*, *124.10*, before an NPDES is issued, the federal or state regulatory agency must follow an extensive administrative hearing procedure. Pursuant to *33 U.S.C. § 1342(b)(1)(B)*, NPDES permits are valid for five years.

(3) Pollution and Conservation Laws § 5--Water Pollution--Clean Water Act--NPDES Permits.--Under the *Clean Water Act (33 U.S.C. § 1251 et seq.)*, the proper scope of the controls in a National Pollution Discharge Elimination System (NPDES) permit depends on the applicable state water quality standards for the affected water bodies. Each state is required to develop water quality standards that establish the desired condition of a waterway. A water quality standard for any given water segment has two components: (1) the designated beneficial uses of the water body; and (2) the water quality criteria sufficient to protect those uses. As enacted in 1972, *33 U.S.C. §§ 1311*, *1362(11)* of the Act mandated that an NPDES permit require compliance with state water quality standards and that this goal be met by setting forth a specific "effluent limitation," which is a restriction on the amount of pollutants that may be discharged at the point source. [*868]

(4) Pollution and Conservation Laws § 5--Water Pollution--Clean Water Act--NPDES Permits.--In 1987, Congress amended the *Clean Water Act (33 U.S.C. 1251 et seq.)*, to add provisions, specifically, *33 U.S.C. § 1342(p)*, that specifically concerned National Pollution Discharge Elimination System (NPDES) permit requirements for storm sewer discharges. In these amendments, enacted as part of the *Water Quality Act of 1987 (33 U.S.C. § 251 et seq.)*, Congress distinguished between industrial and municipal storm water discharges. With respect to municipal storm water discharges, Congress clarified in *33 U.S.C. § 1342(p)(3)(B)(iii)* that the Environmental Protection Agency had the authority to fashion NPDES permit requirements to meet water quality standards without specific numerical effluent limits and instead to impose controls to reduce the discharge of pollutants to the maximum extent practicable.

(5) Pollution and Conservation Laws § 5--Water Pollution--Waste Discharge Requirements.--Pursuant to *Wat. Code, § 13374*, the waste discharge requirements issued by the regional water boards ordinarily also serve as National Pollution Discharge Elimination System permits under federal law.

(6) Pollution and Conservation Laws § 5--Water Pollution--Writ of Mandate--Exercise of Independent Judgment.--Where a party has been aggrieved by a final decision of a regional water board for which the State Water Resources Control Board denies review, *Code Civ. Proc., § 1094.5*, governs the writ of mandate proceedings, and the superior court must, pursuant to *Wat. Code, § 13330, subd. (d)*, exercise its independent judgment in examining the evidence and resolving factual disputes. In exercising its independent judgment, a trial court must afford a strong presumption of correctness concerning the administrative findings, and the party challenging the administrative decision bears the burden of convincing the court that the administrative findings are contrary to the weight of the evidence.

(7) Appellate Review § 144--Scope of Review--Questions of Law and Fact--Factual Determinations--Substantial Evidence Standard--De Novo Review.--In reviewing the trial court's factual determinations on the administrative record, an appellate court applies a substantial evidence standard. However, in reviewing the trial court's legal determinations, an appellate court conducts a de novo review. Thus, the appellate court is not bound by the legal determinations made by the state or regional agencies or by the trial court, but it must give appropriate consideration to an administrative agency's expertise underlying its interpretation of an applicable statute. [*869]

(8) Pollution and Conservation Laws § 5--Water Pollution--Clean Water Act--More Stringent State Controls.--It is well settled that the *Clean Water Act (33*

U.S.C. § 1251 et seq.) authorizes states to impose water quality controls that are more stringent than are required under federal law, *33 U.S.C. § 1370*, and California law specifically allows the imposition of controls more stringent than federal law, *Wat. Code, § 13377*.

(9) Pollution and Conservation Laws § 5--Water Pollution--Clean Water Act--NPDES Permits.--The language of *33 U.S.C. § 1342(p)(3)(B)(iii)* does communicate the basic principle that the Environmental Protection Agency (and/or a state approved to issue a National Pollution Discharge Elimination System permit) retains the discretion to impose "appropriate" water pollution controls in addition to those that come within the definition of "maximum extent practicable."

(10) Statutes § 21--Construction--Legislative Intent.--While punctuation and grammar should be considered in interpreting a statute, neither is controlling unless the result is in harmony with the clearly expressed intent of the Legislature. If the statutory language is susceptible to more than one reasonable interpretation, a court must also look to a variety of extrinsic aids, including the ostensible objects to be achieved, the evils to be remedied, the legislative history, public policy, contemporaneous administrative construction, and the statutory scheme of which the statute is a part.

(11) Pollution and Conservation Laws § 5--Water Pollution--Clean Water Act--NPDES Permits.--With respect to National Pollution Discharge Elimination System (NPDES) permits, the legislative purpose underlying the *Water Quality Act of 1987 (33 U.S.C. § 251 et seq.)*, and *33 U.S.C. § 1342(p)* in particular, supports that Congress intended to provide the Environmental Protection Agency (or the regulatory agency of an approved state) the discretion to require compliance with water quality standards in a municipal storm sewer NPDES permit, particularly where that compliance will be achieved primarily through an iterative process.

(12) Statutes § 44--Construction--Administrative--Judicial Deference.--A court is required to give substantial deference to an administrative interpretation of a statute.

(13) Appellate Review § 135--Scope of Review--Presumptions.--All judgments and orders are presumed correct, and persons challenging them must affirmatively show reversible error. [*870]

(14) Appellate Review § 108--Briefs--Requisites--Reference to Record--Party Challenging Sufficiency of Evidence--Summarization of All Material Evidence Required.--A party challenging the sufficiency of evidence to support a judgment must summarize (and cite to) all of the material evidence, not just the evidence favorable to his or her appellate positions.

(15) Administrative Law § 116--Judicial Review and Relief--Scope of Review--Abuse of Discretion--Administrative Permit.--The party challenging the scope of an administrative permit has the burden of showing the agency abused its discretion or its findings were unsupported by the facts.

(16) Pollution and Conservation Laws § 5--Water Pollution--Industrial Storm Water Dischargers--Best Available Technology Economically Achievable.--BAT is an acronym for "best available technology economically achievable," which is a technology-based standard for industrial storm water dischargers that focuses on reducing pollutants by treatment or by a combination of treatment and best management practices.

COUNSEL: Latham & Watkins, David L. Mulliken, Eric M. Katz, Paul N. Singarella, Kelly E. Richardson and Daniel P. Brunton for Plaintiffs and Appellants.

Bill Lockyer, Attorney General, Mary Hackenbracht, Assistant Attorney General, Carol A. Squire, David Robinson and Deborah Fletcher, Deputy Attorneys General, for Defendants and Respondents.

David S. Beckman, Heather L. Hoecherl, Anjali I. Jaiswal and Dan L. Gildor for Interveners and Respondents.

Marco Gonzalez for Intervener and Respondent San Diego BayKeeper.

Law Offices of Rory Wicks and Rory R. Wicks for Surfrider Foundation, Waterkeeper Alliance, The Ocean Conservancy, Heal the Bay, Environmental Defense Center, Santa Monica BayKeeper, Orange County CoastKeeper, Ventura CoastKeeper, Environmental Health Coalition, CalBeach Advocates, San Diego Audubon Society, Endangered Habitats League and Sierra Club as Amici Curiae on behalf [***2] of Defendants and Respondents and Interveners and Respondents.

JUDGES: Haller, J., with Benke, Acting P. J., and Aaron, J., concurring.

OPINION BY: HALLER [*871]

OPINION

[**130] **HALLER, J.**--This case concerns the environmental regulation of municipal storm sewers that

carry excess water runoff to lakes, lagoons, rivers, bays, and the ocean. The waters flowing through these sewer systems have accumulated numerous harmful pollutants that are then discharged into the water body without receiving any treatment. To protect against the resulting water quality impairment, federal and state laws impose regulatory controls on storm sewer discharges. In particular, municipalities and other public entities are required to obtain, and comply with, a regulatory permit limiting the quantity and quality of water runoff that can be discharged from these storm sewer systems.

In this case, the California Regional Water Control Board, San Diego Region, (Regional Water Board) conducted numerous public hearings and then issued a comprehensive municipal storm sewer permit governing 19 local public entities. Although these entities did not bring an administrative challenge to the permit, one business organization, the Building Industry [***3] Association of San Diego County (Building Industry), filed an administrative appeal with the State Water Resources Control Board (State Water Board). After making some modifications to the permit, the State Water Board denied the appeal. Building Industry then petitioned for a writ of mandate in the superior court, asserting numerous claims, including that the permit violates state and federal law because the permit provisions are too stringent and impossible to satisfy. Three environmental groups intervened as defendants in the action. After a hearing, the trial court found Building Industry failed to prove its claims and entered judgment in favor of the administrative agencies (the Water Boards) and the intervener environmental groups.

(1) On appeal, Building Industry's main contention is that the regulatory permit violates federal law because it allows the Water Boards to impose municipal storm sewer control measures more stringent than a federal standard known as "maximum extent practicable." (*33 U.S.C. § 1342(p)(3)(B)(iii)*.) [2] [**131] In the published portion of this opinion, we reject this contention, and conclude the Water Boards had the authority to include [***4] a permit provision requiring compliance with state water quality standards. In the unpublished portion of the opinion, we find Building Industry's additional contentions to be without merit. We affirm the judgment.

2 Further statutory references are to *title 33 of the United States Code*, unless otherwise specified.

[*872] RELEVANT BACKGROUND INFORMATION

I. *Summary of Relevant Clean Water Act Provisions*

Before setting forth the factual background of this particular case, it is helpful to summarize the federal and state statutory schemes for regulating municipal storm sewer discharges. [3]

3 The systems that carry untreated urban water runoff to receiving water bodies are known as "[m]unicipal separate storm sewer" systems (*40 C.F.R. § 122.26(b)(8)*), and are often referred to as "MS4s" (*40 C.F.R. § 122.30*). For readability, we will identify these systems as municipal storm sewers. To avoid confusion in this case, we will generally use descriptive names, rather than initials or acronyms, when referring to parties and concepts.

[***5] A. *Federal Statutory Scheme*

When the United States Congress first enacted the *Federal Water Pollution Control Act in 1948*, the Congress relied primarily on state and local enforcement efforts to remedy water pollution problems. (*Middlesex Cty. Sewerage Auth. v. Sea Clammers (1981) 453 U.S. 1, 11 [69 L. Ed. 2d 435, 101 S. Ct. 2615]*; *Tahoe-Sierra Preservation Council v. State Water Resources Control Bd. (1989) 210 Cal. App. 3d 1421, 1433 [259 Cal. Rptr. 132]*.) However, by the early 1970's, it became apparent that this reliance on local enforcement was ineffective and had resulted in the "accelerating environmental degradation of rivers, lakes, and streams ... ." (*Natural Resources Defense Council, Inc. v. Costle (D.C. Cir. 1977) 568 F.2d 1369, 1371* (*Costle*); see *EPA v. State Water Resources Control Board (1976) 426 U.S. 200, 203 [48 L. Ed. 2d 578, 96 S. Ct. 2022]*.) In response, in 1972 Congress substantially amended this law by mandating compliance with various minimum technological effluent standards established by the federal government and creating a comprehensive regulatory scheme to implement these laws. (See *EPA v. State Water Resources Control Board, supra, 426 U.S. at pp. 204-205*.) [***6] The objective of this law, now commonly known as the Clean Water Act, was to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters." (*§ 1251(a)*.)

(2) The Clean Water Act employs the basic strategy of prohibiting pollutant emissions from "point sources" [4] unless the party discharging the pollutants obtains a permit, known as an NPDES [5] permit. (See *EPA v. State Water Resources Control Board, supra, 426 U.S. at p. 205*.) It is "unlawful [*873] for any person to discharge a pollutant without obtaining a permit and complying with its terms." (*Ibid.*; see *§ 1311(a)*; *Costle, supra, 568* [**132] *F.2d at p. 1375*.) An NPDES permit is issued by the United States Environmental Protection Agency (EPA) or by a state that has a federally approved water

quality program. (*§ 1342(a), (b)*; *EPA v. State Water Resources Control Board, supra, 426 U.S. at p. 209*.) Before an NPDES is issued, the federal or state regulatory agency must follow an extensive administrative hearing procedure. (See *40 C.F.R. §§ 124.3, 124.6, 124.8, 124.10*; see generally Wardzinski et al., *National Pollutant Discharge Elimination System* [***7] *Permit Application and Issuance Procedures,* in The Clean Water Act Handbook (Evans edit., 1994) pp. 72-74 (Clean Water Act Handbook).) NPDES permits are valid for five years. (*§ 1342(b)(1)(B)*.)

4 The Clean Water Act defines a "point source" to be "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 operation, or vessel or other floating craft, from which pollutants are or may be discharged." (*§ 1362(14)*.)

5 NPDES stands for National Pollution Discharge Elimination System.

(3) Under the Clean Water Act, the proper scope of the controls in an NPDES permit depends on the applicable state water quality standards for the affected water bodies. (See *Communities for a Better Environment v. State Water Resources Control Bd. (2003) 109 Cal.App.4th 1089, 1092 [1 Cal. Rptr. 3d 76]*.) Each state is required to develop water quality standards that establish " 'the desired [***8] condition of a waterway.' " (*Ibid*.) A water quality standard for any given water segment has two components: (1) the designated beneficial uses of the water body; and (2) the water quality criteria sufficient to protect those uses. (*Ibid*.) As enacted in 1972, the Clean Water Act mandated that an NPDES permit require compliance with state water quality standards and that this goal be met by setting forth a specific "effluent limitation," which is a restriction on the amount of pollutants that may be discharged at the point source. (*§§ 1311, 1362(11)*.)

Shortly after the 1972 legislation, the EPA promulgated regulations exempting most municipal storm sewers from the NPDES permit requirements. (*Costle, supra, 568 F.2d at p. 1372*; see *Defenders of Wildlife v. Browner (9th Cir. 1999) 191 F.3d 1159, 1163* (*Defenders of Wildlife*).) When environmental groups challenged this exemption in federal court, the Ninth Circuit held a storm sewer is a point source and the EPA did not have the authority to exempt categories of point sources from the Clean Water Act's NPDES permit requirements. (*Costle, supra, 568 F.2d at pp. 1374-1383*.) [***9] The *Costle* court rejected the EPA's argument that effluent-based storm sewer regulation was administratively infeasible because of the variable nature of storm water pollution and the number of affected storm sewers throughout the country. (*Id. at pp. 1377-1382*.) Although the court acknowledged the practical problems relating to storm sewer regulation, the court found the EPA had the flexibility under the Clean Water Act to design regulations that would overcome these problems. (*Id. at pp. 1379-1383*.)

[*874] During the next 15 years, the EPA made numerous attempts to reconcile the statutory requirement of point source regulation with the practical problem of regulating possibly millions of diverse point source discharges of storm water. (*Defenders of Wildlife, supra, 191 F.3d at p. 1163*; see Gallagher, *Clean Water Act* in Environmental Law Handbook (Sullivan edit., 2003) p. 300 (Environmental Law Handbook); Eisen, *Toward a Sustainable Urbanism: Lessons from Federal Regulation of Urban Stormwater Runoff* (1995) *48 Wash. U. J. Urb. & Contemp. L. 1, 40-41* (*Regulation of Urban Stormwater Runoff*).)

(4) Eventually, in 1987, Congress amended the [***10] Clean Water Act to add provisions that specifically concerned NPDES permit requirements for storm sewer discharges. (*§ 1342(p)*; see *Defenders of Wildlife, supra,* [**133] *191 F.3d at p. 1163*; *Natural Resources Defense Council v. U.S. E.P.A. (1992) 966 F.2d 1292, 1296*.) In these amendments, enacted as part of the *Water Quality Act of 1987*, Congress distinguished between industrial and municipal storm water discharges. With respect to *industrial* storm water discharges, Congress provided that NPDES permits "shall meet all applicable provisions of this section and *section 1311* [requiring the EPA to establish effluent limitations under specific timetables] ... ." (*§ 1342(p)(3)(A)*.) With respect to *municipal* storm water discharges, Congress clarified that the EPA had the authority to fashion NPDES permit requirements to meet water quality standards without specific numerical effluent limits and instead to impose "controls to reduce the discharge of pollutants to the maximum extent practicable ... ." (*§ 1342(p)(3)(B)(iii)*; see *Defenders of Wildlife, supra, 191 F.3d at p. 1163*.) Because the statutory language pertaining to municipal [***11] storm sewers is at the center of this appeal, we quote the relevant portion of the statute in full:

"(B) ... Permits for discharges from municipal storm sewers--

"(i) may be issued on a system- or jurisdiction-wide basis;

"(ii) shall include a requirement to effectively prohibit non-stormwater discharges into the storm sewers; and

"(iii) shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including

management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants." (*§ 1342(p)(3)(B)*.)To ensure this scheme would be administratively workable, Congress placed a moratorium on many new types of required stormwater permits until 1994 (*§ 1342(p)(1)*), and created a phased approach to necessary municipal [*875] stormwater permitting depending on the size of the municipality (*§ 1342(p)(2)(D)*). (See *Environmental Defense Center, Inc. v. U.S. E.P.A. (9th Cir. 2003) 344 F.3d 832, 841-842*.)

B. *State Statutory Scheme*

Three years before the 1972 Clean Water Act, the California Legislature enacted [***12] its own water quality protection legislation, the *Porter-Cologne Water Quality Control Act* (Porter-Cologne Act), seeking to "attain the highest water quality which is reasonable ... ." (*Wat. Code, § 13000*.) The Porter-Cologne Act created the State Water Board to formulate statewide water quality policy and established nine regional boards to prepare water quality plans (known as basin plans) and issue permits governing the discharge of waste. (*Wat. Code, §§ 13100, 13140, 13200, 13201, 13240, 13241, 13243*.) The Porter-Cologne Act identified these permits as "waste discharge requirements," and provided that the waste discharge requirements must mandate compliance with the applicable regional water quality control plan. (*Wat. Code, §§ 13263, subd. (a), 13377, 13374*.)

Shortly after Congress enacted the Clean Water Act in 1972, the California Legislature added chapter 5.5 to the Porter-Cologne Act, for the purpose of adopting the necessary federal requirements to ensure it would obtain EPA approval to issue NPDES permits. (*Wat. Code, § 13370, subd. (c)*.) As part of these amendments, the Legislature provided that the state and regional water boards "shall, as required or authorized [***13] by the [Clean Water Act], issue waste discharge requirements ... which apply and ensure compliance with all applicable provisions [**134] [of the Clean Water Act], together with any more stringent effluent standards or limitations necessary to implement water quality control plans, or for the protection of beneficial uses, or to prevent nuisance." (*Wat. Code, § 13377*.) *Water Code section 13374* provides that "[t]he term 'waste discharge requirements' as referred to in this division is the equivalent of the term 'permits' as used in the [Clean Water Act]."

(5) California subsequently obtained the required approval to issue NPDES permits. (*WaterKeepers Northern California v. State Water Resources Control Bd. (2002) 102 Cal.App.4th 1448, 1453 [126 Cal. Rptr. 2d 389]*.) Thus, the waste discharge requirements issued by the regional water boards ordinarily also serve as NPDES permits under federal law. (*Wat. Code, § 13374*.)

II. *The NPDES Permit at Issue in this Case*

Under its delegated authority and after numerous public hearings, in February 2001 the Regional Water Board issued a 52-page NPDES permit [*876] and Waste Discharge Requirements (the Permit) governing municipal storm sewers owned [***14] by San Diego County, the San Diego Unified Port District, and 18 San Diego-area cities (collectively, Municipalities). [6] The first 10 pages of the Permit contain the Regional Water Board's detailed factual findings. These findings describe the manner in which San Diego-area water runoff absorbs numerous harmful pollutants and then is conveyed by municipal storm sewers into local waters without any treatment. The findings state that these storm sewer discharges are a leading cause of water quality impairment in the San Diego region, endangering aquatic life and human health. The findings further state that to achieve applicable state water quality objectives, it is necessary not only to require municipalities to comply with existing pollution-control technologies, but also to require compliance with applicable "receiving water limits" (state water quality standards) and to employ an "iterative process" of "development, implementation, monitoring, and assessment" to improve existing technologies.

6 Under the Clean Water Act, entities responsible for NPDES permit conditions pertaining to their own discharges are referred to as "copermittees." (*40 C.F.R. § 122.26(b)(1)*.) For clarity and readability, we shall refer to these entities as Municipalities.

[***15] Based on these factual findings, the Regional Water Board included in the Permit several overall prohibitions applicable to municipal storm sewer discharges. Of critical importance to this appeal, these prohibitions concern two categories of restrictions. First, the Municipalities are prohibited from discharging those pollutants "which have not been reduced to the *maximum extent practicable* ... ." [7] (Italics added). Second, the Municipalities [**135] are prohibited from discharging pollutants "which cause or contribute to exceedances of receiving water quality objectives ... " and/or that "cause or contribute to the violation of water quality standards ... ." This second category of restrictions (referred to in this opinion as the Water Quality Standards provisions) essentially provide that a municipality may not discharge pollutants if those pollutants would cause the receiving water body to exceed the applicable water quality standard. It is these latter restrictions that are challenged by Building Industry in this appeal.

7 The Permit does not precisely define this phrase, and instead, in its definition section, contains a lengthy discussion of the variable nature of the maximum extent practicable concept, referred to as MEP. A portion of this discussion is as follows: "[T]he 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 [local storm sewer plan]. Their total collective and individual activities conducted pursuant to the [plan] becomes their proposal for MEP as it applies both to their overall effort, as well as to specific activities (e.g., MEP for street sweeping, or MEP for municipal separate storm sewer maintenance). In the absence of a proposal acceptable to the [Regional Water Board], the [Regional Water Board] defines MEP." The definition also identifies several factors that are "useful" in determining whether an entity has achieved the maximum extent practicable standard, including "Effectiveness," "Regulatory Compliance," "Public Acceptance," "Cost," and "Technical Feasibility."

[***16] [*877] Part C of the Permit (as amended) qualifies the Water Quality Standards provisions by detailing a procedure for enforcing violations of those standards through a step-by-step process of "timely implementation of control measures ...," known as an "iterative" process. Under this procedure, when a municipality "caus[es] or contribute[s] to an exceedance of an applicable water quality standard," the municipality must prepare a report documenting the violation and describing a process for improvement and prevention of further violations. The municipality and the regional water board must then work together at improving methods and monitoring progress to achieve compliance. But the final provision of Part C states that "Nothing in this section shall prevent the [Regional Water Board] from enforcing any provision of this Order while the [municipality] prepares and implements the above report."

In addition to these broad prohibitions and enforcement provisions, the Permit requires the Municipalities to implement, or to require businesses and residents to implement, various pollution control measures referred to as "best management practices," which reflect techniques for preventing, [***17] slowing, retaining or absorbing pollutants produced by stormwater runoff. These best management practices include structural controls that minimize contact between pollutants and flows, and nonstructural controls such as educational and public outreach programs. The Permit also requires the Municipalities to regulate discharges associated with new development and redevelopment and to ensure a completed project will not result in significantly increased discharges of pollution from storm water runoff.

III. *Administrative and Trial Court Challenges*

After the Regional Water Board issued the Permit, the Building Industry, an organization representing the interests of numerous construction-related businesses, filed an administrative challenge with the State Water Board. Although none of the Municipalities joined in the administrative appeal, Building Industry claimed its own independent standing based on its assertion that the Permit would impose indirect obligations on the regional building community. (See *Wat. Code, § 13320* [permitting any "aggrieved person" to challenge regional water board action].) Among its numerous contentions, Building Industry argued that the Water [***18] Quality Standards provisions in the Permit require strict compliance with state water quality standards beyond what is "practicable" and therefore violate federal law.

In November 2001, the State Water Board issued a written decision rejecting Building Industry's appeal after making certain modifications to the Permit. (Cal. Wat. Resources Control Bd. Order WQ2001-15 (Nov. 15, 2001).) Of particular relevance here, the State Water [*878] Board modified the Permit to make clear that the iterative enforcement process applied to the Water Quality Standards provisions in the Permit. But the State Water Board did not delete the Permit's [**136] provision stating that the Regional Water Board retains the authority to enforce the Water Quality Standards provisions even if a Municipality is engaged in this iterative process.

Building Industry then brought a superior court action against the Water Boards, challenging the Regional Board's issuance of the Permit and the State Water Board's denial of Building Industry's administrative challenge. [8] Building Industry asserted numerous legal claims, including that the Water Boards: (1) violated the Clean Water Act by imposing a standard greater [***19] than the "maximum extent practicable" standard; (2) violated state law by failing to consider various statutory factors before issuing the Permit; (3) violated the *California Environmental Quality Act* (CEQA) by failing to prepare an environmental impact report (EIR); and (4) made findings that were factually unsupported.

8 Several other parties were also named as petitioners: Building Industry Legal Defense Foundation, California Business Properties Association, Construction Industry Coalition for Water Quality, San Diego County Fire Districts Association, and the City of San Marcos. However, because these entities were not parties in the administrative challenge, the superior court proper-

ly found they were precluded by the administrative exhaustion doctrine from challenging the administrative agencies' compliance with the federal and state water quality laws. Although these entities were named as appellants in the notice of appeal, they are barred by the exhaustion doctrine from asserting appellate contentions concerning compliance with federal and state water quality laws. However, as to any other claims (such as CEQA), these entities are proper appellants. For ease of reference and where appropriate, we refer to the appellants collectively as Building Industry.

Three environmental organizations, San Diego BayKeeper, Natural Resources Defense Council, and California CoastKeeper (collectively, Environmental Organizations), [***20] requested permission to file a complaint in intervention, seeking to uphold the Permit and asserting a direct and substantial independent interest in the subject of the action. Over Building Industry's objections, the trial court permitted these organizations to file the complaint and enter the action as parties-interveners.

After reviewing the lengthy administrative record and the parties' briefs, and conducting an oral hearing, the superior court ruled in favor of the Water Boards and Environmental Organizations (collectively, respondents). Applying the independent judgment test, the court found Building Industry failed to meet its burden to establish the State Water Board abused its discretion in approving the Permit or that the administrative findings are contrary to the weight of the evidence. In particular, the court found Building Industry failed to establish the Permit requirements were "impracticable under federal law or unreasonable under state law," and noted that there was evidence showing the Regional Water Board considered many practical aspects of the regulatory [*879] controls before issuing the Permit. Rejecting Building Industry's legal arguments, the court also stated that [***21] under federal law the Water Boards had the discretion "to require strict compliance with water quality standards" or "to require less than strict compliance with water quality standards." The court also sustained several of respondents' evidentiary objections, including to documents relating to the legislative history of the Clean Water Act.

Building Industry appeals, challenging the superior court's determination that the Permit did not violate the federal Clean Water Act. In its appeal, Building Industry does not reassert its claim that the Permit violates state law, except for its contentions pertaining to CEQA.

DISCUSSION

I. *Standard of Review*

(6) A party aggrieved by a final decision of the State Water Board may obtain review of the decision by filing a timely [**137] petition for writ of mandate in the superior court. (*Wat. Code, § 13330, subd. (a)*.) *Code of Civil Procedure section 1094.5* governs the proceedings, and the superior court must exercise its independent judgment in examining the evidence and resolving factual disputes. (*Wat. Code, § 13330, subd.* [***22] *(d)*.) "In exercising its independent judgment, a trial court must afford a strong presumption of correctness concerning the administrative findings, and the party challenging the administrative decision bears the burden of convincing the court that the administrative findings are contrary to the weight of the evidence." (*Fukuda v. City of Angels (1999) 20 Cal.4th 805, 817 [85 Cal. Rptr. 2d 696, 977 P.2d 693]*.)

(7) In reviewing the trial court's factual determinations on the administrative record, a Court of Appeal applies a substantial evidence standard. (*Fukuda v. City of Angels, supra, 20 Cal.4th at p. 824*.) However, in reviewing the trial court's legal determinations, an appellate court conducts a de novo review. (See *Alliance for a Better Downtown Millbrae v. Wade (2003) 108 Cal.App.4th 123, 129 [133 Cal. Rptr. 2d 249]*.) Thus, we are not bound by the legal determinations made by the state or regional agencies or by the trial court. (See *Yamaha Corp. of America v. State Bd. of Equalization (1998) 19 Cal.4th 1, 7-8 [78 Cal. Rptr. 2d 1, 960 P.2d 1031]*.) But we must give appropriate consideration to an administrative agency's expertise underlying its interpretation of an applicable statute. [9] (*Ibid*.)

9 We note that in determining the meaning of the Clean Water Act and its amendments, federal courts generally defer to the EPA's statutory construction if the disputed portion of the statute is ambiguous. (See *Chevron U.S.A. v. Natural Res. Def. Council, Inc. (1984) 467 U.S. 837, 842-844 [81 L. Ed. 2d 694, 104 S. Ct. 2778]* (*Chevron*).) However, the parties do not argue this same principle applies to a *state agency's* interpretation of the Clean Water Act. Nonetheless, under governing state law principles, we do consider and give due deference to the Water Boards' statutory interpretations in this case. (See *Yamaha Corp. of America v. State Bd. of Equalization, supra, 19 Cal.4th at pp. 7-8*.)

[***23]

[*880] II. *Water Boards' Authority to Enforce Water Quality Standards in NPDES Permit*

Building Industry's main appellate contention is very narrow. Building Industry argues that two provisions in the Permit (the Water Quality Standards provisions) vio-

late federal law because they prohibit the Municipalities from discharging runoff from storm sewers if the discharge would cause a water body to exceed the applicable water quality standard established under state law. [10] Building Industry contends that under federal law the "maximum extent practicable" standard is the "exclusive" measure that may be applied to municipal storm sewer discharges and a regulatory agency may not require a Municipality to comply with a state water quality standard if the required controls exceed a "maximum extent practicable" standard.

> 10 These challenged Permit provisions state "Discharges from [storm sewers] which cause or contribute to exceedances of receiving water quality objectives for surface water or groundwater are prohibited" (Permit, § A.2), and "Discharges from [storm sewers] that cause or contribute to the violation of water quality standards ... are prohibited" (Permit, § C.1).

[***24] In the following discussion, we first reject respondents' contentions that Building Industry waived these arguments by failing to raise a substantial evidence challenge to the court's factual findings and/or [**138] to reassert its state law challenges on appeal. We then focus on the portion of the Clean Water Act (*§ 1342(p)(3)(B)(iii)*) that Building Industry contends is violated by the challenged Permit provisions. On our de novo review of this legal issue, we conclude the Permit's Water Quality Standards provisions are proper under federal law, and Building Industry's legal challenges are unsupported by the applicable statutory language, legislative purpose, and legislative history.

A. *Building Industry Did Not Waive the Legal Argument*

Respondents (the Water Boards and Environmental Organizations) initially argue that Building Industry waived its right to challenge the Permit's consistency with the maximum extent practicable standard because Building Industry did not challenge the trial court's *factual* findings that Building Industry failed to prove any of the Permit requirements were "impracticable" or "unreasonable."

In taking this position, respondents misconstrue the [***25] nature of Building Industry's appellate contention challenging the Water Quality Standards provisions. Building Industry's contention concerns the scope of the authority given to the Regional Water Board under the Permit terms. Specifically, [*881] Building Industry argues that the Regional Water Board does not have the authority to require the Municipalities to adhere to the applicable water quality standards because federal law provides that the "maximum extent practicable" standard is the exclusive standard that may be applied to storm sewer regulation. This argument--concerning the proper scope of a regulatory agency's authority--presents a purely legal issue, and is not dependent on the court's factual findings regarding the practicality of the specific regulatory controls identified in the Permit.

Respondents alternatively contend that Building Industry waived its right to challenge the propriety of the Water Quality Standards provisions under federal law because the trial court found the provisions were valid under state law and Building Industry failed to reassert its state law challenges on appeal. Under the particular circumstances of this case, we conclude Building Industry did [***26] not waive its rights to challenge the Permit under federal law.

(8) Although it is well settled that the Clean Water Act authorizes states to impose water quality controls that are more stringent than are required under federal law (*§ 1370*; see *PUD No. 1 of Jefferson Cty. v. Washington Dept. of Ecology (1994) 511 U.S. 700, 705 [128 L. Ed. 2d 716, 114 S. Ct. 1900]*; *Northwest Environmental Advocates v. Portland (9th Cir. 1995) 56 F.3d 979, 989*), and California law specifically allows the imposition of controls more stringent than federal law (*Wat. Code, § 13377*), the Water Boards made a tactical decision in the superior court to assert the Permit's validity based solely on federal law, and repeatedly made clear they were not seeking to justify the Permit requirements based on the Boards' independent authority to act under state law. On appeal, the Water Boards continue to rely primarily on federal law to uphold the Permit requirements, and their assertions that we may decide the matter based solely on state law are in the nature of asides rather than direct arguments. On this record, it would be improper to rely solely on state law to uphold the challenged Permit provisions. [***27]

B. *The Water Quality Standards Requirement Does Not Violate Federal Law*

We now turn to Building Industry's main substantive contention on appeal-- [**139] that the Permit's Water Quality Standards provisions (fn. 10, *ante*) violate federal law. Building Industry's contention rests on its interpretation of the 1987 Water Quality Act amendments containing NPDES requirements for municipal storm sewers. The portion of the relevant statute reads: "(B) ... Permits for discharges from municipal storm sewers ... [¶] ... [¶] (iii) shall require controls to reduce the discharge of pollutants to the *maximum extent practicable, including* management practices, control techniques and [*882] system, design and engineering methods, and such other provisions as the [EPA] Administrator or the State determines appropriate for the control of such pollutants." (*§ 1342(p)(3)(B)(iii)*, italics added.)

1. *Statutory Language*

Focusing on the first 14 words of subdivision (iii), Building Industry contends the statute means that the maximum extent practicable standard sets the upper limit on the type of control that can be used in an NPDES permit, and that each of the phrases following the [***28] word "*including*" identify examples of "maximum extent practicable" controls. (*§ 1342(p)(3)(B)(iii)*, italics added.) Building Industry thus reads the final "and such other provisions" clause as providing the EPA with the authority only to include *other* types of "maximum extent practicable" controls in an NPDES storm sewer permit.

Respondents counter that the term "including" refers only to the three identified types of pollution control procedures--(1) "management practices"; (2) "control techniques"; and (3) "system, design and engineering methods"--and that the last phrase, "*and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants*," provides the EPA (or the approved state regulatory agency) the specific authority to go beyond the maximum extent practicable standard to impose effluent limitations or water-quality based standards in an NPDES permit. In support, respondents argue that because the word "system" in *section 1342(p)(3)(B)(iii)* is singular, it necessarily follows from parallel-construction grammar principles that the word "system" is part of the phrase "system, design and engineering methods" rather [***29] than the phrase "control techniques and system." Under this view and given the absence of a comma after the word "techniques," respondents argue that the "and such other provisions" clause cannot be fairly read as restricted by the "maximum extent practicable" phrase, and instead the "and such other provisions" clause is a separate and distinct clause that acts as a second direct object to the verb "require" in the sentence. (*§ 1342(p)(3)(B)(iii)*.)

Building Industry responds that respondents' proposed statutory interpretation is "not logical" because if the "and such other provisions" phrase is the direct object of the verb "require," the sentence would not make sense. Building Industry states that "permits" do not generally "require" provisions; they "include" or "contain" them.

(9) As a matter of grammar and word choice, respondents have the stronger position. The second part of Building Industry's proposed interpretation--"control techniques and system, design and engineering methods"--without a comma after the word "techniques" does not logically serve as a [*883] parallel construct with the "and such other provisions" clause. Moreover, we disagree that the "and such other provisions" [***30] clause cannot be a direct object to the word "require." (*§ 1342(p)(3)(B)(iii)*.) Although it is not the clearest way of articulating the concept, the language of *section 1342(p)(3)(B)(iii)* does communicate the [**140] basic principle that the EPA (and/or a state approved to issue the NPDES permit) retains the discretion to impose "appropriate" water pollution controls in addition to those that come within the definition of " 'maximum extent practicable.' " (*Defenders of Wildlife, supra, 191 F.3d at pp. 1165-1167*.) We find unpersuasive Building Industry's reliance on several statutory interpretation concepts, *ejusdem generis, noscitur a sociis*, and *expressio unius est exclusion alterius*, to support its narrower statutory construction.

2. *Purpose and History of Section 1342(p)(3)(B)(iii)*

(10) Further, "[w]hile punctuation and grammar should be considered in interpreting a statute, neither is controlling unless the result is in harmony with the clearly expressed intent of the Legislature." (*In re John S. (2001) 88 Cal.App.4th 1140, 1144, fn. 1 [106 Cal. Rptr. 2d 476]*; see *Estate of Coffee (1941) 19 Cal.2d 248, 251 [120 P.2d 661]*.) If the statutory language is susceptible [***31] to more than one reasonable interpretation, a court must also "look to a variety of extrinsic aids, including the ostensible objects to be achieved, the evils to be remedied, the legislative history, public policy, contemporaneous administrative construction, and the statutory scheme of which the statute is a part." (*Nolan v. City of Anaheim (2004) 33 Cal.4th 335, 340 [14 Cal. Rptr. 3d 857, 92 P.3d 350]*.)

(11) The legislative purpose underlying the Water Quality Act of 1987, and *section 1342(p)* in particular, supports that Congress intended to provide the EPA (or the regulatory agency of an approved state) the discretion to require compliance with water quality standards in a municipal storm sewer NPDES permit, particularly where, as here, that compliance will be achieved primarily through an iterative process.

Before *section 1342(p)* was enacted, the courts had long recognized that the EPA had the authority to require a party to comply with a state water quality standard even if that standard had not been translated into an effluent limitation. (See *EPA v. State Water Resources Control Board, supra, 426 U.S. at p. 205, fn. 12*; *PUD No. 1 of Jefferson Cty. v. Washington Dept. of Ecology, supra, 511 U.S. at p. 715*; [***32] *Northwest Environmental Advocates v. Portland (9th Cir. 1995) 56 F.3d 979, 987*; *Natural Resources Defense Council v. U.S.E.P.A. (9th Cir. 1990) 915 F.2d 1314, 1316*.) Specifically, *section 1311(b)(1)(C)* gave the regulatory agency the authority to impose "any more stringent limitation, including those necessary to meet water quality standards," and *section 1342(a)(2)* provided that "[t]he [EPA] Administrator shall [*884] prescribe conditions for [NPDES] permits to assure compliance" with re-

quirements identified in *section 1342(a)(1)*, which encompass state water quality standards. The United States Supreme Court explained that when Congress enacted the 1972 Clean Water Act, it retained "[w]ater quality standards ... as a supplementary basis for effluent limitations, ... so that numerous point sources despite individual compliance with effluent limitations, may be further regulated to prevent water quality from falling below acceptable levels. ... " (*EPA v. State Water Resources Control Board, supra, 426 U.S. at p. 205, fn. 12*; see also *Arkansas v. Oklahoma (1992) 503 U.S. 91, 101 [117 L. Ed. 2d 239, 112 S. Ct. 1046]*.)

There [***33] is nothing in *section 1342(p)(3)(B)(iii)*'s statutory language or legislative history showing that Congress intended to eliminate this discretion when it amended the Clean Water Act in 1987. [**141] To the contrary, Congress added the NPDES storm sewer requirements to strengthen the Clean Water Act by making its mandate correspond to the practical realities of municipal storm sewer regulation. As numerous commentators have pointed out, although Congress was reacting to the physical differences between municipal storm water runoff and other pollutant discharges that made the 1972 legislation's blanket effluent limitations approach impractical and administratively burdensome, the primary point of the legislation was to address these administrative problems while giving the administrative bodies the tools to meet the fundamental goals of the Clean Water Act in the context of stormwater pollution. (See *Regulation of Urban Stormwater Runoff*, *supra*, 48 Wash. U. J. Urb. & Contemp. L. at pp. 44-46; Environmental Law Handbook, *supra*, at p. 300; Clean Water Act Handbook, *supra*, at pp. 62-63.) In the 1987 congressional debates, the Senators and Representatives emphasized the need to prevent the widespread and escalating problems [***34] resulting from untreated storm water toxic discharges that were threatening aquatic life and creating conditions dangerous to human health. (See Remarks of Sen. Durenberger, 133 Cong. Rec. 1279 (Jan. 14, 1987); Remarks of Sen. Chaffee, 133 Cong. Rec. S738 (daily ed. Jan 14, 1987); Remarks of Rep. Hammerschmidt, 133 Cong. Rec. 986 (Jan. 8, 1987); Remarks of Rep. Roe, 133 Cong. Rec. 1006, 1007 (Jan. 8, 1987); Remarks of Sen. Stafford, 132 Cong. Rec. 32381, 32400 (Oct. 16, 1986).) This legislative history supports that in identifying a maximum extent practicable standard Congress did not intend to substantively bar the EPA/state agency from imposing a more stringent water quality standard if the agency, based on its expertise and technical factual information and after the required administrative hearing procedure, found this standard to be a necessary and workable enforcement mechanism to achieving the goals of the Clean Water Act.

To support a contrary view, Building Industry relies on comments by Minnesota Senator David Durenberger during the lengthy congressional [*885] debates on the 1987 Water Quality Act amendments. [11] (132 Cong. Rec. 32400 (Oct. 16, 1986); 133 Cong. Rec. S752 (daily [***35] ed. Jan. 14, 1987.) In the cited portions of the Congressional Record, Senator Durenberger states that NPDES permits "shall require controls to reduce the discharge of pollutants to the maximum extent practicable. Such controls include management practices, control techniques and systems, design and engineering methods, and such other provisions, as the Administrator determines appropriate for the control of pollutants in the stormwater discharge." (*Ibid.*) When viewing these statements in context, it is apparent that the Senator was merely paraphrasing the words of the proposed statute and was not intending to address the issue of whether the maximum extent practicable standard was a regulatory ceiling or whether he believed the proposed amendments limited the EPA's existing discretion. [12]

11 We agree with Building Industry that the trial court's refusal to consider this legislative history on the basis that it was not presented to the administrative agencies was improper. However, this error was not prejudicial because we apply a de novo review standard in interpreting the relevant statutes.

[***36]

12 In the cited remarks, Senator Durenberger in fact expressed his dissatisfaction with the EPA's prior attempts to regulate municipal storm sewers. He pointed out, for example, that "[r]unoff from municipal separate storm sewers and industrial sites contain significant values of both toxic and conventional pollutants," and that despite the Clean Water Act's "clear directive," the EPA "has failed to require most stormwater point sources to apply for permits which would control the pollutants in their discharge." (133 Cong. Rec. 1274, 1279-1280 (daily ed. Jan. 14, 1987).)

[**142] Building Industry's reliance on comments made by Georgia Representative James Rowland, who participated in drafting the 1987 Water Quality Act amendments, is similarly unhelpful. During a floor debate on the proposed amendments, Representative Rowland noted that cities have "millions of" stormwater discharge points and emphasized the devastating financial burden on cities if they were required to obtain a permit for each of these points. (133 Cong. Rec. 522 (daily ed. Feb. 3, 1987).) Representative Rowland then explained [***37] that the amendments would address this problem by "allow[ing] communities to obtain far less costly single jurisdictionwide permits." (*Ibid.*) Viewed in con-

text, these comments were directed at the need for statutory provisions permitting the EPA to issue jurisdiction-wide permits thereby preventing unnecessary administrative costs to the cities, and do not reflect a desire to protect cities from the cost of complying with strict water quality standards when deemed necessary by the regulatory agency.

3. *Interpretations by the EPA and Other Courts*

(12) Our conclusion that Congress intended *section 1342(p)(3)(B)(iii)* to provide the regulatory agency with authority to impose standards stricter than a "maximum extent practicable" standard is consistent with interpretations by [*886] the EPA and the Ninth Circuit. In its final rule promulgated in the Federal Register, the EPA construed *section 1342(p)(3)(B)(iii)* as providing the administrative agency with the authority to impose water-quality standard controls in an NPDES permit if appropriate under the circumstances. Specifically, the EPA stated this statutory provision requires "controls to reduce the discharge of pollutants to the [***38] maximum extent practicable, *and where necessary water quality-based controls ...* ." (*55 Fed.Reg. 47990, 47994 (Nov. 16, 1990)*, italics added.) We are required to give substantial deference to this administrative interpretation, which occurred after an extensive notice and comment period. (See *ibid.*; *Chevron, supra, 467 U.S. at pp. 842-844*.)

The only other court that has interpreted the "such other provisions" language of *section 1342(p)(3)(B)(iii)* has reached a similar conclusion. (*Defenders of Wildlife, supra, 191 F.3d at pp. 1166-1167*.) In *Defenders of Wildlife*, environmental organizations brought an action against the EPA, challenging provisions in an NPDES permit requiring several Arizona localities to adhere to various best management practice controls without requiring numeric effluent limitations. (*Id. at p. 1161*.) The environmental organizations argued that *section 1342(p)* did not allow the EPA to issue NPDES permits without requiring strict compliance with effluent limitations. (*Defenders of Wildlife, supra, at p. 1161*.) Rejecting this argument, the Ninth Circuit found *section 1342(p)(3)(B)(iii)*'s statutory language "unambiguously [***39] demonstrates that Congress did not require [**143] municipal storm-sewer discharges to comply strictly" with effluent limitations. (*Defenders of Wildlife, supra, at p. 1164*.)

But in a separate part of the opinion, the *Defenders of Wildlife* court additionally rejected the reverse argument made by the affected municipalities (who were the interveners in the action) that "the EPA may not, under the [Clean Water Act], require strict compliance with state water-quality standards, through numerical limits or otherwise." (*Defenders of Wildlife, supra, 191 F.3d at p. 1166*.) The court stated: "Although Congress did not require municipal storm-sewer discharges to comply strictly with [numerical effluent limitations], *§ 1342(p)(3)(B)(iii)* states that '[p]ermits for discharges from municipal storm sewers ... shall require ... *such other provisions as the Administrator ... determines appropriate for the control of such pollutants.*' (Emphasis added.) That provision gives the EPA discretion to determine what pollution controls are appropriate. ... [¶] *Under that discretionary provision, the EPA has the authority to determine that ensuring* [***40] *strict compliance with state water-quality standards is necessary to control pollutants.* The EPA also has the authority to require less than strict compliance with state water-quality standards ... . Under *33 U.S.C. § 1342(p)(3)(B)(iii)*, the EPA's choice to include either management practices or numeric limitations in the permits was within its discretion. [Citations.]" (*Defenders of Wildlife, supra, 191 F.3d at pp. 1166-1167*, second italics added.) Although dicta, this [*887] conclusion reached by a federal court interpreting federal law is persuasive and is consistent with our independent analysis of the statutory language. [13]

13 Building Industry's reliance on two other Ninth Circuit decisions to support a contrary statutory interpretation is misplaced. (See *Natural Res. Def. Council, Inc. v. U.S.E.P.A., supra, 966 F.2d at p. 1308*; *Environmental Defense Center, Inc. v. U.S. E.P.A. (9th Cir. 2003) 344 F.3d 832*.) Neither of these decisions addressed the issue of the scope of a regulatory agency's authority to exceed the maximum extent practicable standard in issuing NPDES permits for municipal storm sewers.

[***41] To support its interpretation of *section 1342(p)(3)(B)(iii)*, Building Industry additionally relies on the statutory provisions addressing nonpoint source runoff (a diffuse runoff not channeled through a particular source), which were also part of the 1987 amendments to the Clean Water Act. (*§ 1329*.) In particular, Building Industry cites to *section 1329(a)(1)(C)*, which states, "The Governor of each State shall ... prepare and submit to the [EPA] Administrator for approval, a report which ... [¶] ... [¶] describes the process ... for identifying best management practices and measures to control each [identified] category ... of nonpoint sources and ... to reduce, to the *maximum extent practicable*, the level of pollution resulting from such category ... ." (Italics added.) Building Industry argues that because this "nonpoint source" statutory language expressly identifies only the maximum extent practicable standard, we must necessarily conclude that Congress meant to similarly limit the storm sewer point source pollution regulations to the maximum extent practicable standard.

The logic underlying this analogy is flawed because the critical language in the [***42] two statutory provisions is different. In the nonpoint source statute, Congress chose to include only the maximum extent practicable standard (*§ 1329(a)(1)(C)*); whereas in the municipal storm sewer provisions, Congress elected to include the "and such other provisions" clause (*§ 1342(p)(3)(B)(iii)*). This difference leads to the reasonable inference that Congress had a different intent when it enacted the two statutory provisions. Moreover, because of a fundamental difference between point and nonpoint source pollution, Congress has historically treated the two types of pollution differently and has subjected each type to entirely different requirements. (See *Pronsolino v. Nastri (9th Cir. 2002) 291 F.3d 1123, 1126-1127*.) Given this different treatment, it would be improper to presume Congress intended to apply the same standard in both statutes. Building Industry's citation to comments during the 1987 congressional debates regarding nonpoint source regulation does [**144] not support Building Industry's contentions.

[*888] 4. *Contention that it is "Impossible" for Municipalities to Meet Water Quality Standards*

We also reject Building Industry's arguments woven throughout [***43] its appellate briefs, and emphasized during oral arguments, that the Water Quality Standards provisions violate federal law because compliance with those standards is "impossible." The argument is not factually or legally supported.

(13) First, there is no showing on the record before us that the applicable water quality standards are unattainable. The trial court specifically concluded that Building Industry failed to make a factual showing to support this contention, and Building Industry does not present a proper appellate challenge to this finding sufficient to warrant our reexamining the evidence. All judgments and orders are presumed correct, and persons challenging them must affirmatively show reversible error. **(14)** *(Walling v. Kimball (1941) 17 Cal.2d 364, 373 [110 P.2d 58]*.) A party challenging the sufficiency of evidence to support a judgment must summarize (and cite to) *all* of the material evidence, not just the evidence favorable to his or her appellate positions. (*In re Marriage of Fink (1979) 25 Cal.3d 877, 887-888 [160 Cal. Rptr. 516, 603 P.2d 881]*; *People v. Dougherty (1982) 138 Cal. App. 3d 278, 282 [188 Cal. Rptr. 123]*.) Building Industry has made [***44] no attempt to comply with this well-established appellate rule in its briefs.

In a supplemental brief, Building Industry attempted to overcome this deficiency by asserting that "[t]he record clearly establishes that [the Water Quality Standards provisions] are unattainable during the period the permit is in effect." This statement, however, is not supported by the proffered citation or by the evidence viewed in the light most favorable to the respondents. Further, the fact that many of the Municipalities' storm sewer discharges currently violate water quality standards does not mean that the Municipalities cannot comply with the standards during the five-year term of the Permit. Additionally, Building Industry's assertions at oral argument that the trial court never reached the impossibility issue and/or that respondents' counsel conceded the issue below are belied by the record, including the trial court's rejection of Building Industry's specific challenge to the proposed statement of decision on this very point. [14]

14 Because we are not presented with a proper appellate challenge, we do not address the trial court's factual determinations in this case concerning whether it is possible or practical for a Municipality to achieve any specific Permit requirement.

[***45] **(15)** We reject Building Industry's related argument that it was respondents' burden to affirmatively show it is feasible to satisfy each of the applicable Water Quality Standards provisions. The party challenging the scope of an administrative permit, such as an NPDES, has the burden of [*889] showing the agency abused its discretion or its findings were unsupported by the facts. (See *Fukuda v. City of Angels, supra, 20 Cal.4th at p. 817*; *Huntington Park Redevelopment Agency v. Duncan (1983) 142 Cal. App. 3d 17, 25 [190 Cal. Rptr. 744]*.) Thus, it was not respondents' burden to affirmatively demonstrate it was possible for the Municipalities to meet the Permit's requirements.

Building Industry alternatively contends it was not required to challenge the facts underlying the trial court's determination that the Permit requirements were feasible [**145] because the court's determination was wrong as a matter of law. Specifically, Building Industry asserts that a Permit requirement that is more stringent than a "maximum extent practicable" standard is, by definition, "not practicable" and therefore "technologically impossible" to achieve under any circumstances. Building [***46] Industry relies on a dictionary definition of "practicable," which provides that the word means " 'something that can be done; feasible,' " citing the 1996 version of "Webster's Encyclopedic Unabridged Dictionary."

(16) This argument is unpersuasive. The federal maximum extent practicable standard is not defined in the Clean Water Act or applicable regulations, and thus the Regional Water Board properly included a detailed description of the term in the Permit's definitions section. (See *ante*, fn. 7.) As broadly defined in the Permit, the maximum extent practicable standard is a highly flexible concept that depends on balancing numerous factors,

including the particular control's technical feasibility, cost, public acceptance, regulatory compliance, and effectiveness. This definition conveys that the Permit's maximum extent practicable standard is a term of art, and is not a phrase that can be interpreted solely by reference to its everyday or dictionary meaning. Further, the Permit's definitional section states that the maximum extent practicable standard "considers economics and is generally, but not necessarily, *less* stringent than BAT." (Italics added.) BAT is an acronym [***47] for "best available technology economically achievable," which is a technology-based standard for industrial storm water dischargers that focuses on reducing pollutants by treatment or by a combination of treatment and best management practices. (See *Texas Oil & Gas Ass'n v. U.S. E.P.A. (5th Cir. 1998) 161 F.3d 923, 928*.) If the maximum extent practicable standard is generally "less stringent" than another Clean Water Act standard that relies on available technologies, it would be unreasonable to conclude that anything more stringent than the maximum extent practicable standard is necessarily impossible. In other contexts, courts have similarly recognized that the word "practicable" does not necessarily mean the most that can possibly be done. (See *Nat. Wildlife Federation v. Norton (E.D.Cal. 2004) 306 F. Supp. 2d 920, 928, fn. 12* ["[w]hile the meaning of the term 'practicable' in the [*Endangered Species Act*] is not entirely clear, the term does not simply equate to 'possible' "]; *Primavera Familienstiftung v. Askin (S.D.N.Y. 1998) 178 F.R.D.* [*890] *405, 409* [noting that "impracticability does not mean impossibility, but rather difficulty [***48] or inconvenience"].)

We additionally question whether many of Building Industry's "impossibility" arguments are premature on the record before us. As we have explained, the record does not support that any required control is, or will be, impossible to implement. Further, the Permit allows the Regional Water Board to enforce water quality standards during the iterative process, but does not impose any obligation that the board do so. Thus, we cannot determine with any degree of certainty whether this obligation would ever be imposed, particularly if it later turns out that it is not possible for a Municipality to achieve that standard.

Finally, we comment on Building Industry's repeated warnings that if we affirm the judgment, all affected Municipalities will be in immediate violation of the Permit because they are not now complying with applicable water quality standards, subjecting them to immediate and substantial civil penalties, and leading to a potential "shut down" of public operations. These doomsday arguments are unsupported. The Permit makes clear that Municipalities [**146] are required to adhere to numerous specific controls (none of which are challenged in this case) and [***49] to comply with water quality standards through "timely implementation of control measures" by engaging in a cooperative iterative process where the Regional Water Board and Municipality work together to identify violations of water quality standards in a written report and then incorporate approved modified best management practices. Although the Permit allows the regulatory agencies to enforce the water quality standards during this process, the Water Boards have made clear in this litigation that they envision the ongoing iterative process as the centerpiece to achieving water quality standards. Moreover, the regulations provide an affected party reasonable time to comply with new permit requirements under certain circumstances. (See *40 C.F.R. § 122.47*.) There is nothing in this record to show the Municipalities will be subject to immediate penalties for violation of water quality standards.

We likewise find speculative Building Industry's predictions that immediately after we affirm the judgment, citizens groups will race to the courthouse to file lawsuits against the Municipalities and seek penalties for violation of the Water Quality Standards provisions. [15] As noted, the applicable [***50] laws provide time for an affected entity to comply with new standards. Moreover, although we do not reach the enforcement issue in this case, we note the [*891] Permit makes clear that the iterative process is to be used for violations of water quality standards, and gives the Regional Water Board the discretionary authority to enforce water quality standards during that process. Thus, it is not at all clear that a citizen would have standing to compel a municipality to comply with a water quality standard despite an ongoing iterative process. (See *§ 1365(a)(1)(2)*.) [***51]

15 The Clean Water Act allows a citizen to sue a discharger to enforce limits contained in NPDES permits, but requires the citizen to notify the alleged violator, the state, and the EPA of its intention to sue at least 60 days before filing suit, and limits the enforcement to nondiscretionary agency acts. (See *§ 1365(a)(1)(2)*.)

III.-VII.* [NOT CERTIFIED FOR PUBLICATION]

* See footnote, *ante*, page 866.

DISPOSITION

Judgment affirmed. Appellants to pay respondents' costs on appeal.

Benke, Acting P. J., and Aaron, J., concurred.

A petition for a rehearing was denied January 4, 2005, and the opinion was modified to read as printed above. Appellants' petition for review by the Supreme

Court was denied March 30, 2005. Baxter, J., and Brown, J., were of the opinion that the petition should be granted. [***52]

DEFENDERS OF WILDLIFE and THE SIERRA CLUB, Petitioners, v. CAROL M. BROWNER, in her official capacity as Administrator of the United States Environmental Protection Agency, Respondent. CITY OF TEMPE, ARIZONA; CITY OF TUCSON, ARIZONA; CITY OF MESA, ARIZONA; PIMA COUNTY, ARIZONA; and CITY OF PHOENIX, ARIZONA, Intervenors-Respondents.

No. 98-71080

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

191 F.3d 1159*; *1999 U.S. App. LEXIS 22212*; *99 Cal. Daily Op. Service 7618*; *99 Daily Journal DAR 9661*; *30 ELR 20116

August 11, 1999, Argued and Submitted, San Francisco, California
September 15, 1999, Filed

SUBSEQUENT HISTORY: [**1] As Amended December 7, 1999.

PRIOR HISTORY: Petition to Review a Decision of the Environmental Protection Agency. EPA No. 97-3.

DISPOSITION: PETITION DENIED.

COUNSEL: Jennifer Anderson and David Baron, Arizona Center for Law in the Public Interest, Phoenix, Arizona, for the petitioners.

Alan Greenberg, Attorney, U.S. Department of Justice, Environment & Natural Resources Division, Denver, Colorado, for the respondent.

Craig Reece, Phoenix City Attorney's Office, Phoenix, Arizona; Stephen J. Burg, Mesa City Attorney's Office, Mesa, Arizona; Timothy Harrison, Tucson City Attorney's Office, Tucson, Arizona; and Harlan C. Agnew, Deputy County Attorney, Tucson, Arizona, for the intervenors-respondents.

David Burchmore, Squire, Sanders & Dempsey, Cleveland, Ohio, for the amici curiae.

JUDGES: Before: John T. Noonan, David R. Thompson, and Susan P. Graber, Circuit Judges. Opinion by Judge Graber.

OPINION BY: SUSAN P. GRABER

OPINION

[*1161] AMENDED OPINION

GRABER, Circuit Judge:

Petitioners challenge the Environmental Protection Agency's (EPA) decision to issue National Pollution Discharge Elimination System (NPDES) permits to five municipalities, for their separate storm sewers, without requiring numeric limitations [**2] to ensure compliance with state water-quality standards. Petitioners sought administrative review of the decision within the EPA, which the Environmental Appeals Board (EAB) denied. This timely petition for review ensued. For the reasons that follow, we deny the petition.

FACTUAL AND PROCEDURAL BACKGROUND

Title *26 U.S.C. § 1342(a)(1)* authorizes the EPA to issue NPDES permits, thereby allowing entities to discharge some pollutants. In 1992 and 1993, the cities of Tempe, Tucson, Mesa, and Phoenix, Arizona, and Pima County, Arizona (Intervenors), submitted applications for NPDES permits. The EPA prepared draft permits for public comment; those draft permits did not attempt to ensure compliance with Arizona's water-quality standards.

Petitioner Defenders of Wildlife objected to the permits, arguing that they must contain numeric limitations to ensure strict compliance with state water-quality standards. The State of Arizona also objected.

Thereafter, the EPA added new requirements:

> To ensure that the permittee's activities achieve timely compliance with applicable water quality standards (Arizona Administrative Code, Title 18, Chapter 11, Article 1), the [**3] permittee shall implement the [Storm Water Management Program], monitoring, reporting and other requirements of this permit in accordance with the time frames established in the [Storm Water Management Program] referenced in Part I.A.2, and elsewhere in the permit. This timely implementation of the requirements of this permit shall constitute a schedule of compliance authorized by Arizona Administrative Code, section R18-11-121(C).

The Storm Water Management Program included a number of structural environmental controls, such as storm-water detention basins, retention basins, and infiltration ponds. It also included programs to remove illegal discharges.

With the inclusion of those "best management practices," the EPA determined that the permits ensured compliance with state water-quality standards. The Arizona Department of Environmental Quality agreed:

> The Department has reviewed the referenced municipal NPDES storm-water permit pursuant to Section 401 of the Federal Clean Water Act to ensure compliance with State water quality standards. We have determined that, based on the information provided in the permit, and the fact sheet, adherence to provisions and [**4] requirements set forth in the final municipal permit, will protect the water quality of the receiving water.

On February 14, 1997, the EPA issued final NPDES permits to Intervenors. Within 30 days of that decision, Petitioners requested an evidentiary hearing with the regional administrator. *See* 40 C.F.R. § 124.74. Although Petitioners requested a hearing, they conceded that they raised only a legal issue and that a hearing was, in fact, unnecessary. Specifically, Petitioners raised only the legal question whether the Clean Water Act (CWA) requires numeric limitations to ensure strict compliance with state water-quality standards; they did not raise the factual question whether the management practices that the EPA chose would be effective.

[*1162] On June 16, 1997, the regional administrator summarily denied Petitioners' request. Petitioners then filed a petition for review with the EAB. *See* 40 C.F.R. § 124.91(a). On May 21, 1998, the EAB denied the petition, holding that the permits need not contain numeric limitations to ensure strict compliance with state water-quality standards. Petitioners then moved for reconsideration, *see* 40 C.F.R. § 124.91(i), which the EAB denied.

[**5] JURISDICTION

Title *33 U.S.C. § 1369(b)(1)(F)* authorizes "any interested person" to seek review in this court of an EPA decision "issuing or denying any permit under *section 1342* of this title." "Any interested person" means any person that satisfies the injury-in-fact requirement for Article III standing. *See Natural Resources Defense Council, Inc. v. EPA, 966 F.2d 1292, 1297 (9th Cir. 1992)* [*NRDC II*]. It is undisputed that Petitioners satisfy that requirement. Petitioners allege that "members of Defenders and the Club use and enjoy ecosystems affected by storm water discharges and sources thereof governed by the above-referenced permits," and no other party disputes those facts. *See Lujan v. Defenders of Wildlife, 504 U.S. 555, 565-66, 119 L. Ed. 2d 351, 112 S. Ct. 2130 (1992)* ("[A] plaintiff claiming injury from environmental damage must use the area affected by the challenged activity."); *see also NRDC II, 966 F.2d at 1297* ("NRDC claims, inter alia, that [the] EPA has delayed unlawfully promulgation of storm water regulations and that its regulations, as published, inadequately control storm water [**6] contaminants. NRDC's allegations . . . satisfy the broad standing requirement applicable here.").

Intervenors argue, however, that they were not parties when this action was filed and that this court cannot redress Petitioners' injury without them. Their real contention appears to be that they are indispensable parties under *Federal Rule of Civil Procedure 19*. We need not consider that contention, however, because in fact Intervenors have been permitted to intervene in this action and to present their position fully. In the circumstances, Intervenors have suffered no injury.

DISCUSSION

A. *Standard of Review*

The Administrative Procedures Act (APA), *5 U.S.C. §§ 701-06*, provides our standard of review for the EPA's decision to issue a permit. *See American Mining Congress v. EPA, 965 F.2d 759, 763 (9th Cir. 1992)*. Under the APA, we generally review such a decision to determine whether it was "arbitrary, capricious, an abuse of

discretion, or otherwise not in accordance with law." *5 U.S.C. § 706(2)(A)*.

On questions of statutory interpretation, we follow the approach from *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837, 81 L. Ed. 2d 694, 104 S. Ct. 2778 (1984)*. [**7] *See NRDC II, 966 F.2d at 1297* (so holding). In *Chevron, 467 U.S. at 842-44*, the Supreme Court devised a two-step process for reviewing an administrative agency's interpretation of a statute that it administers. *See also Bicycle Trails Council of Marin v. Babbitt, 82 F.3d 1445, 1452 (9th Cir. 1996)* ("The Supreme Court has established a two-step process for reviewing an agency's construction of a statute it administers."). Under the first step, we employ "traditional tools of statutory construction" to determine whether Congress has expressed its intent unambiguously on the question before the court. *Chevron, 467 U.S. at 843 n.9*. "If the intent of Congress is clear, that is the end of the matter; for the court, as well as the agency, must give effect to the unambiguously expressed intent of Congress." *Id. at 842-43* (footnote omitted). If, instead, Congress has left a gap for the administrative agency to fill, we proceed to step two. *See id. at 843*. At step two, we must uphold the administrative regulation unless it is "arbitrary, capricious, or manifestly contrary to the statute." *Id. at 844*.

[**8] [*1163] B. *Background*

The CWA generally prohibits the "discharge of any pollutant," *33 U.S.C. § 1311(a)*, from a "point source" into the navigable waters of the United States. *See 33 U.S.C. § 1362(12)(A)*. An entity can, however, obtain an NPDES permit that allows for the discharge of some pollutants. *See 33 U.S.C. § 1342(a)(1)*.

Ordinarily, an NPDES permit imposes effluent limitations on such discharges. *See 33 U.S.C. § 1342(a)(1)* (incorporating effluent limitations found in *33 U.S.C. § 1311*). First, a permit-holder "shall . . . achieve . . . effluent limitations . . . which shall require the application of the best practicable control technology [BPT] currently available." *33 U.S.C. § 1311(b)(1)(A)*. Second, a permit-holder "*shall . . . achieve . . . any more stringent limitation*, including those *necessary to meet water quality standards*, treatment standards or schedules of compliance, established pursuant to any State law or regulations (under authority preserved by section 1370 of this title)." *33 U.S.C. § 1311* [**9] *(b)(1)(C)* (emphasis added). Thus, although the BPT requirement takes into account issues of practicability, *see Rybachek v. EPA, 904 F.2d 1276, 1289 (9th Cir. 1990)*, the EPA also "is under a specific obligation to require that level of effluent control which is needed to implement existing water quality standards without regard to the limits of practicability," *Oklahoma v. EPA, 908 F.2d 595, 613 (10th Cir. 1990)* (internal quotation marks omitted), *rev'd on other grounds sub nom. Arkansas v. Oklahoma, 503 U.S. 91, 117 L. Ed. 2d 239, 112 S. Ct. 1046 (1992)*. *See also Ackels v. EPA, 7 F.3d 862, 865-66 (9th Cir. 1993)* (similar).

The EPA's treatment of storm-water discharges has been the subject of much debate. Initially, the EPA determined that such discharges generally were exempt from the requirements of the CWA (at least when they were uncontaminated by any industrial or commercial activity). *See* 40 C.F.R. § 125.4 (1975).

The Court of Appeals for the District of Columbia, however, invalidated that regulation, holding that "the EPA Administrator does not have authority to exempt categories of point sources from [**10] the permit requirements of § 402 [*33 U.S.C. § 1342*]." *Natural Resources Defense Council, Inc. v. Costle, 186 U.S. App. D.C. 147, 568 F.2d 1369, 1377 (D.C. Cir. 1977)*. "Following this decision, [the] EPA issued proposed and final rules covering storm water discharges in 1980, 1982, 1984, 1985 and 1988. These rules were challenged at the administrative level and in the courts." *American Mining Congress, 965 F.2d at 763*.

Ultimately, in 1987, Congress enacted the Water Quality Act amendments to the CWA. *See NRDC II, 966 F.2d at 1296* ("Recognizing both the environmental threat posed by storm water runoff and [the] EPA's problems in implementing regulations, Congress passed the Water Quality Act of 1987 containing amendments to the CWA.") (footnotes omitted). Under the Water Quality Act, from 1987 until 1994, [1] most entities discharging storm water did not need to obtain a permit. *See 33 U.S.C. § 1342(p)*.

1 As enacted, the Water Quality Act extended the exemption to October 1, 1992. Congress later amended the Act to change that date to October 1, 1994. *See* Pub. L. No. 102-580.

[**11] Although the Water Quality Act generally did not require entities discharging storm water to obtain a permit, it did require such a permit for discharges "with respect to which a permit has been issued under this section before February 4, 1987," *33 U.S.C. § 1342(p)(2)(A)*; discharges "associated with industrial activity," *33 U.S.C. § 1342(p)(2)(B)*; discharges from a "municipal separate sewer system serving a population of [100,000] or more," *33 U.S.C. § 1342(p)(2)(C)* & *(D)*; and "[a] discharge for which the Administrator . . . determines that the stormwater discharge contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the United States," *33 U.S.C. § 1342(p)(2)(E)*.

[*1164] When a permit is required for the discharge of storm water, the Water Quality Act sets two different standards:

> (A) Industrial discharges
>
> Permits for discharges associated with industrial activity shall meet all applicable provisions of this section *and section 1311* of this title.
>
> (B) Municipal discharge
>
> Permits for discharges from municipal [**12] storm sewers -
>
> (i) may be issued on a system- or jurisdiction-wide basis;
>
> (ii) shall include a requirement to effectively prohibit non-stormwater discharges into the storm sewers; and
>
> (iii) *shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator . . . determines appropriate for the control of such pollutants.*

33 U.S.C. § 1342(p)(3) (emphasis added).

C. *Application of Chevron*

The EPA and Petitioners argue that the Water Quality Act is ambiguous regarding whether Congress intended for municipalities to comply strictly with state water-quality standards, under *33 U.S.C. § 1311(b)(1)(C)*. Accordingly, they argue that we must proceed to step two of *Chevron* and defer to the EPA's interpretation that the statute does require strict compliance. *See Zimmerman v. Oregon Dep't of Justice, 170 F.3d 1169, 1173 (9th Cir. 1999)* ("At step two, we must uphold the administrative regulation unless it is arbitrary, capricious, or [**13] manifestly contrary to the statute.") (citation and internal quotation marks omitted), *petition for cert. filed*, No. 99-243 (Aug. 10, 1999).

Intervenors and *amici*, on the other hand, argue that the Water Quality Act expresses Congress' intent unambiguously and, thus, that we must stop at step one of *Chevron*. *See, e.g., National Credit Union Admin. v. First Nat'l Bank & Trust Co., 522 U.S. 479, 118 S. Ct. 927, 938-39, 140 L. Ed. 2d 1 (1998)* ("Because we conclude that Congress has made it clear that the *same* common bond of occupation must unite each member of an occupationally defined federal credit union, we hold that the NCUA's contrary interpretation is impermissible under the first step of *Chevron*.") (emphasis in original); *Sierra Club v. EPA, 118 F.3d 1324, 1327 (9th Cir. 1997)* ("Congress has spoken clearly on the subject and the regulation violates the provisions of the statute. Our inquiry ends at the first prong of *Chevron*."). We agree with Intervenors and *amici*: For the reasons discussed below, the Water Quality Act unambiguously demonstrates that Congress did not require municipal storm-sewer discharges to comply [**14] strictly with *33 U.S.C. § 1311(b)(1)(C)*. That being so, we end our inquiry at the first step of the *Chevron* analysis.

"Questions of congressional intent that can be answered with 'traditional tools of statutory construction' are still firmly within the province of the courts" under *Chevron. NRDC II, 966 F.2d at 1297* (citation omitted). "Using our 'traditional tools of statutory construction,' *Chevron, 467 U.S. at 843 n.9, 104 S. Ct. 2778*, when interpreting a statute, we look first to the words that Congress used." *Zimmerman, 170 F.3d at 1173* (alterations, citations, and internal quotation marks omitted). "Rather than focusing just on the word or phrase at issue, we look to the entire statute to determine Congressional intent." *Id.* (alterations, citations, and internal quotation marks omitted).

As is apparent, Congress expressly required *industrial* storm-water discharges to comply with the requirements of *33 U.S.C. § 1311*. *See 33 U.S.C. § 1342(p)(3)(A)* ("Permits for discharges associated with industrial activity *shall meet all applicable* [**15] *provisions of* this section and *section 1311* of this title.") (emphasis added). By incorporation, then, industrial [*1165] storm-water discharges "*shall . . . achieve . . . any more stringent limitation*, including those necessary to meet water quality standards, treatment standards or schedules of compliance, established pursuant to any State law or regulation (under authority preserved by section 1370 of this title)." *33 U.S.C. § 1311(b)(1)(C)* (emphasis added); *see also* Sally A. Longroy, *The Regulation of Storm Water Runoff and its Impact on Aviation*, 58 J. Air. L. & Com. 555, 565-66 (1993) ("Congress further *singled out* industrial storm water dischargers, all of which are on the high-priority schedule, and requires them to satisfy all provisions of section 301 of the CWA [*33 U.S.C. § 1311*]. . . . Section 301 further mandates that NPDES permits include requirements that receiving waters meet water quality based standards.") (emphasis added). In other words, industrial discharges must comply strictly with state water-quality standards.

Congress chose not to include a similar provision for municipal [**16] storm-sewer discharges. Instead, Congress required municipal storm-sewer discharges "to reduce the discharge of pollutants to the maximum extent

practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator . . . determines appropriate for the control of such pollutants." *33 U.S.C. § 1342(p)(3)(B)(iii)*.

The EPA and Petitioners argue that the difference in wording between the two provisions demonstrates ambiguity. That argument ignores precedent respecting the reading of statutes. Ordinarily, "where Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion." *Russello v. United States, 464 U.S. 16, 23, 78 L. Ed. 2d 17, 104 S. Ct. 296 (1983)* (citation and internal quotation marks omitted); *see also United States v. Hanousek, 176 F.3d 1116, 1121 (9th Cir. 1999)* (stating the same principle), *petition for cert. filed*, No. 98-323 (Aug. 23, 1999). Applying that familiar [**17] and logical principle, we conclude that Congress' choice to require industrial storm-water discharges to comply with *33 U.S.C. § 1311*, but not to include the same requirement for municipal discharges, must be given effect. When we read the two related sections together, we conclude that *33 U.S.C. § 1342(p)(3)(B)(iii)* does not require municipal storm-sewer discharges to comply strictly with *33 U.S.C. § 1311(b)(1)(C)*.

Application of that principle is significantly strengthened here, because *33 U.S.C. § 1342(p)(3)(B) is not merely silent* regarding whether municipal discharges must comply with *33 U.S.C. § 1311*. Instead, *§ 1342(p)(3)(B)(iii) replaces* the requirements of *§ 1311* with the requirement that municipal storm-sewer dischargers "reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator . . . determines appropriate for the control of such pollutants." *33 U.S.C. § 1342(p)(3)(B)(iii)*. [**18] In the circumstances, the statute unambiguously demonstrates that Congress did not require municipal storm-sewer discharges to comply strictly with *33 U.S.C. § 1311(b)(1)(C)*.

Indeed, the EPA's and Petitioners' interpretation of *33 U.S.C. § 1342(p)(3)(B)(iii)* would render that provision superfluous, a result that we prefer to avoid so as to give effect to all provisions that Congress has enacted. *See Government of Guam ex rel. Guam Econ. Dev. Auth. v. United States, 179 F.3d 630, 634 (9th Cir. 1999)* ("This court generally refuses to interpret a statute in a way that renders a provision superfluous."), *as amended, 1999 U.S. App. LEXIS 18691, 1999 WL 604218 (9th Cir. Aug. 12, 1999)*. *Section 1342(p)(3)(B)(iii)* creates a lesser standard than *§ 1311*. Thus, if *§ 1311* continues to apply to municipal storm-sewer discharges, [*1166] the more stringent requirements of that section always would control.

Contextual clues support the plain meaning of *§ 1342(p)(3)(B)(iii)*, which we have described above. The Water Quality Act contains other provisions that undeniably exempt certain discharges from the permit requirement altogether (and therefore from [**19] *§ 1311*). For example, "the Administrator shall not require a permit under this section for discharges composed entirely of return flows from irrigated agriculture." *33 U.S.C. § 1342(l)(1)*. Similarly, a permit is not required for certain storm-water runoff from oil, gas, and mining operations. *See 33 U.S.C. § 1342(l)(2)*. Read in the light of those provisions, Congress' choice to exempt municipal storm-sewer discharges from strict compliance with *§ 1311* is not so unusual that we should hesitate to give effect to the statutory text, as written.

Finally, our interpretation of *§ 1342(p)(3)(B)(iii)* is supported by this court's decision in *NRDC II*. There, the petitioner had argued that "the EPA has failed to establish substantive controls for municipal storm water discharges as required by the 1987 amendments." *NRDC II, 966 F.2d at 1308*. This court disagreed with the petitioner's interpretation of the amendments:

> Prior to 1987, municipal storm water dischargers were subject to the same substantive control requirements as industrial and other types of storm water. In the 1987 amendments, *Congress retained the* [**20] *existing, stricter controls for industrial storm water dischargers but prescribed new controls for municipal storm water discharge*.

Id. (emphasis added). The court concluded that, under *33 U.S.C. § 1342(p)(3)(B)(iii)*, "*Congress did not mandate a minimum standards approach*." *Id.* (emphasis added). The question in *NRDC II* was not whether *§ 1342(p)(3)(B)(iii)* required strict compliance with state water-quality standards, *see 33 U.S.C. § 1311(b)(1)(C)*. Nonetheless, the court's holding applies equally in this action and further supports our reading of *33 U.S.C. § 1342(p)*.

In conclusion, the text of *33 U.S.C. § 1342(p)(3)(B)*, the structure of the Water Quality Act as a whole, and this court's precedent all demonstrate that Congress did not require municipal storm-sewer discharges to comply strictly with *33 U.S.C. § 1311(b)(1)(C)*.

D. *Required Compliance with 33 U.S.C. § 1311(b)(1)(C)*

We are left with Intervenors' contention that the EPA may not, under the CWA, require strict compliance with state water-quality [**21] standards, through numerical limits or otherwise. We disagree.

Although Congress did not require municipal storm-sewer discharges to comply strictly with *§ 1311(b)(1)(C), § 1342(p)(3)(B)(iii)* states that "permits for discharges from municipal storm sewers . . . shall require . . . *such other provisions as the Administrator . . . determines appropriate for the control of such pollutants*." (Emphasis added.) That provision gives the EPA discretion to determine what pollution controls are appropriate. As this court stated in *NRDC II*, "Congress gave the administrator discretion to determine what controls are necessary. . . . NRDC's argument that the EPA rule is inadequate cannot prevail in the face of the clear statutory language." *966 F.2d at 1308*.

Under that discretionary provision, the EPA has the authority to determine that ensuring strict compliance with state water-quality standards is necessary to control pollutants. The EPA also has the authority to require less than strict compliance with state water-quality standards. The EPA has adopted an interim approach, which "uses best management practices (BMPs) in first-round storm water permits . . . to provide [**22] for the attainment of water quality standards." The EPA applied that approach to the permits at issue here. Under *33 U.S.C. § 1342(p)(3)(B)(iii)*, the EPA's choice to include [*1167] either management practices or numeric limitations in the permits was within its discretion. *See NRDC II, 966 F.2d at 1308* ("Congress did not mandate a minimum standards approach or specify that [the] EPA develop minimal performance requirements."). In the circumstances, the EPA did not act arbitrarily or capriciously by issuing permits to Intervenors.

PETITION DENIED.

State of California, Plaintiff-Appellant, v. United States Department of the Navy, Does one through ten, Defendant-Appellee

No. 86-1972

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

845 F.2d 222*; *1988 U.S. App. LEXIS 5651*; *27 ERC (BNA) 1569*; *18 ELR 20863

April 14, 1987, Argued, April 6, 1988, Submitted
April 27, 1988, Filed

PRIOR HISTORY: [**1] Appeal from the United States District Court for the Northern District of California, Marilyn Hall Patel, District Judge, Presiding, D.C. No. CV-85-3830-HMP.

DISPOSITION: Affirmed.

COUNSEL: Roderick E. Walston, Allene C. Zanger, Deputy Attorneys General, San Francisco, California for the Plaintiff-Appellant.

Robert L. Klarquist, J. Carol Williams, Dept. of Justice, Washington, District of Columbia, for the Defendant-Appellee.

James Thornton, Natural Resources Defense Council, New York, New York; Michael Axline, John Bonine, Eugene, Oregon, for the Amicus Curiae.

JUDGES: Herbert Y. C. Choy, Alfred T. Goodwin and Thomas Tang, Circuit Judges.

OPINION BY: CHOY

OPINION

[*223] CHOY, Circuit Judge:

The State of California ("California") brought this action against the United States Department of the Navy ("Navy") for alleged violations of a state water pollution discharge permit. The complaint alleges that the Navy violated the terms and conditions of its permit from October 1983 through July 1984 by discharging waste that was not properly treated into the San Francisco Bay. The complaint sought recovery of civil penalties under §§ 505(a)(1) and 309(d) of the Clean Water Act ("CWA"), [**2] *33 U.S.C. §§ 1365(a)(1), 1319(d)*, and *Cal. Water Code §§ 13385* and *13386*.

The Navy filed a motion to dismiss under both *Fed. R. Civ. P. 12(b)(1)* and *12(b)(6)*, alleging that the district court lacked subject matter jurisdiction and that California had failed to state an actionable claim. On April 2, 1986, the district court granted the Navy's motion. *California v. Department of the Navy, 631 F. Supp. 584 (N.D. Cal. 1986)*. The court held that a state is not a "citizen" within the meaning of § 505(a) of the CWA, and that § 309(d), in conjunction with § 313, *33 U.S.C. § 1323*, does not create an independent jurisdictional ground for a state to seek civil penalties against a federal entity. *631 F. Supp. at 590-92*. California timely appeals. [1]

1 California's claim under the citizen suit provision of § 505 is no longer before us. The Supreme Court recently held that "§ 505 does not permit citizen suits for wholly past violations." *Gwaltney of Smithfield v. Chesapeake Bay Foundation, Inc., 484 U.S. 49, 108 S. Ct. 376, 384-85, 98 L. Ed. 2d 306 (1987)*. On January 4, 1988, we granted California's motion to withdraw the appeal of its § 505 claim in light of *Gwaltney*. We thus express no opinion as to whether the district court correctly held that a state is not a "citizen" within the meaning of § 505(a).

The district court did not specifically address the cause of action brought under *Cal. Water Code §§ 13385*-86, for which California asserts jurisdiction under § 402(b)(7), *33 U.S.C. § 1342(b)(7)*. Indeed, although raised in its complaint, it is not clear that California pursued this

claim before the district court. However, a federal appellate court may decide an issue not adjudicated below where the proper resolution of that issue is clear. *Singleton v. Wulff, 428 U.S. 106, 121, 49 L. Ed. 2d 826, 96 S. Ct. 2868 (1976)*. This is such an issue.

[**3]

We review *de novo* the district court's conclusion that it lacked subject matter jurisdiction. *Carpenters Southern California Administrative Corp. v. Majestic Housing, 743 F.2d 1341, 1343 (9th Cir. 1984)*. We affirm.

STATUTORY BACKGROUND

The opinion below and prior decisions of this court have discussed the purpose and [*224] statutory background of the CWA. [2] It is sufficient for our purposes to note that the CWA authorizes a permit system-the National Pollutant Discharge Elimination System ("NPDES")-for the enforcement of pollution discharge limitations. Although the Administrator of the Environmental Protection Agency ("Administrator") is authorized to issue NPDES permits directly, each state may also establish and administer its own permit program. *33 U.S.C. § 1342(a), (b)*. State programs require the Administrator's approval, but the Administrator must approve any state system unless he or she determines that the state does not have "adequate authority" to enforce the Act. *33 U.S.C. § 1342(b)*. The California program, which the Administrator authorized on May 14, 1983, is contained in Chapter 5.5 of [**4] the California Water Code. *Cal. Water Code §§ 13370*-13389.

2 *See Shell Oil Co. v. Train, 585 F.2d 408, 409-10 (9th Cir. 1978)*; *California, 631 F. Supp. at 586*.

Once a state permit program has been approved and implemented, the Act provides for an elaborate enforcement scheme involving the Administrator, the states, and citizens. The extent to which Congress intended the various enforcement mechanisms to interact is the issue presently before us.

DISCUSSION

I. *Jurisdiction Under Section 309(d)*

Section 313 of the CWA requires all federal facilities to comply with state NPDES permit requirements. *33 U.S.C. § 1323(a)*. Section 309(d) declares that any person who violates a state-issued permit "shall be subject to a civil penalty not to exceed $ 10,000 per day of such violation." *33 U.S.C. § 1319(d)*. California thus argues that § 309(d) of the CWA, in conjunction with § 313, provides an independent jurisdictional [**5] ground for a state to seek civil penalties against federal dischargers.

While § 309(d) does not explicitly indicate who is authorized to seek civil penalties, we agree with the district court's conclusion that Congress intended to authorize only the Administrator to seek such penalties.

Both the structure of § 309 and its legislative history indicate that the section is intended to outline the Administrator's enforcement powers under the CWA. Section 309(a), (b), and (f) specifically authorize the *Administrator* to bring various compliance actions, and § 309(e) outlines a procedural requirement in terms which suggest that actions under § 309 will be brought by the Administrator. It is also significant that in the authorization of citizen suits under § 505(a), Congress felt it necessary to expressly provide for § 309(d) civil penalties. This further suggests that Congress intended to otherwise limit access to § 309(d).

The legislative history of § 309 also supports this conclusion. The House Report states that "the provisions of section 309 are supplemental to those of the State and are available to the Administrator in those cases where . . . State . . . enforcement [**6] agencies will not or cannot . . . enforce the requirements of this Act." H.R. Rep. No. 911, 92d Cong., 2d Sess. 115 (1972). The Senate Report refers to § 309 as the "federal enforcement" provision and states that it is intended to create federal enforcement powers *concurrent* with those of the states. S. Rep. No. 414, 92 Cong., 2d Sess., *reprinted in* 1972 U.S. Code Cong. & Admin. News 3668, 3729-30. The report similarly outlines the Senate Committee's intent that the authority granted in the *Administrator* by § 309 should be used judiciously. *Id. See also* 118 Cong. Rec. 33693 (1972) (statement by Senator Muskie outlining the Administrator's responsibilities under § 309, the "enforcement section" of the Act). The legislative history to the 1986 amendments to the CWA again refers to the remedies available to the *Administrator* under § 309. H.R. Rep. No. 1004, 99th Cong., 2d Sess. 132 (1986).

We similarly reject California's suggestion that we find an implied cause of action under § 309(d). In *Middlesex County Sewerage Authority v. National Sea Clammers Association, 453 U.S. 1, 13, 69 L. Ed. 2d 435, 101 S. Ct. 2615 (1981)*, the [*225] Court [**7] cautioned against unnecessary judicial activism in enforcement of the CWA, noting that the CWA contains "unusually elaborate enforcement provisions, conferring authority to sue . . . both on government officials and private citizens." In light of those provisions, "it cannot be assumed that Congress intended to authorize by implication additional judicial remedies." *Id. at 14*.

Finally, the Court in *Gwaltney* specifically differentiated between citizen suits under § 505(a) and the Ad-

ministrator's authority to seek penalties for past violations under § 309(d). The Court stated that a comparison of the two sections supported its conclusion that "citizens, unlike the Administrator, may seek civil penalties only in a suit brought to enjoin or otherwise abate an ongoing violation." *Gwaltney, 108 S. Ct. at 382*. Further, the Court recognized that the Administrator's ability to secure compliance from a violator through a bargain in which the Administrator agreed not to seek § 309(d) penalties would be limited if citizens could later use § 505(a) to pursue those foregone penalties. *Id. at 383*. Permitting the state to seek penalties for past violations [**8] through § 309(d) would similarly frustrate the Administrator's ability to enforce the CWA in the public's best interest.

In short, we agree that Congress intended § 309 to be utilized solely by the Administrator, except to the extent that § 505 (a) expressly authorizes citizens to step into the shoes of the Administrator through § 309(d) to obtain civil penalties in citizen suits. [3] We thus affirm the district court's dismissal of California's § 309(d) claim.

3 Having determined that the § 309 does not provide an independent jurisdictional ground for the State's suit, we need not decide whether the language of §§ 309(d) and 313 contains the requisite explicit waiver of sovereign immunity to allow an action against the Navy.

II. *Jurisdiction Under § 402(b)(7)*

California also asserts federal jurisdiction under § 402(b) (7) of the CWA. This provision states that in order to obtain approval of an NPDES program, a state must have adequate authority "to abate violations of the permit program, [**9] including civil and criminal penalties." *33 U.S.C. § 1342(b) (7)*. California has included civil penalty provisions in its NPDES program. *See Cal. Water Code §§ 13385*-86. California asserts that because these provisions were mandated by § 402(b)(7) and approved by the Administrator, they fall within § 313, which subjects federal dischargers to civil penalties "arising under" federal law. *33 U.S.C. § 1323(a)*. This argument is neither supported by the structure of the CWA nor its legislative history.

Section 402(b) itself requires a state to submit to the Administrator a description of the program it intends to administer under *state* law. *33 U.S.C. § 1342(b)*. Further, *Cal. Water Code § 13386*, which outlines a portion of the requisite enforcement provisions, authorizes the State Attorney General to seek civil penalties in *state* superior court.

The legislative history clearly states that the state permit programs are "not a delegation of Federal authority," but instead are state programs which "function[] in lieu of the Federal program." H.R. Rep. No. 830, 95th Cong., 1st Sess. 104 (1977).

[**10] Finally, we decline the invitation to find a Congressional waiver of sovereign immunity without finding the requisite explicit Congressional intent. *See United States v. Mitchell, 445 U.S. 535, 538, 63 L. Ed. 2d 607, 100 S. Ct. 1349 (1980)*. California's position would essentially nullify § 313(a)'s express limitation of civil penalties against federal agencies to those arising under federal law. Congress clearly did not intend such a result.

CONCLUSION

Congress specifically contemplated that states would seek both civil and criminal penalties for the violation of state NPDES permits in state court under state law. *See 33 U.S.C. § 1342(b)(7)*. Thus, where Congress intended to grant states an active role in the enforcement process, "it knew how to do so and did so expressly." *Touche Ross & Co. v. Redington, 442 U.S. 560, 572,* [*226] *61 L. Ed. 2d 82, 99 S. Ct. 2479 (1979)*. In light of the extent to which Congress has delineated the respective roles of the Administrator, the states, and private individuals under the CWA, we are unwilling to broaden the scope of the overall enforcement scheme. *See Massachusetts Mutual Life Insurance Co. v. Russell, 473 U.S. 134, 147, 87 L. Ed. 2d 96, 105 S. Ct. 3085 (1985)*. [**11] "'Where a statute expressly provides a particular remedy or remedies, a court must be chary of reading others into it.'" *Sea Clammers 453 U.S. at 14-15* (quoting *Transamerica Mortgage Advisors, Inc. v. Lewis, 444 U.S. 11, 19, 62 L. Ed. 2d 146, 100 S. Ct. 242 (1979))*.

The district court's conclusion that it lacked subject matter jurisdiction to hear California's claims is AFFIRMED.

EXHIBIT F

Linda S. Adams
Secretary for
Environmental Protection

State Water Resources Control Board

Division of Water Quality
1001 I Street • Sacramento, California 95814 • (916) 341-5455
Mailing Address: P.O. Box 100 • Sacramento, California • 95812-0100
Fax (916) 341-5463 • http://www.waterboards.ca.gov

Arnold Schwarzenegger
Governor

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
GENERAL PERMIT FOR
STORM WATER DISCHARGES
ASSOCIATED WITH CONSTRUCTION AND LAND DISTURBANCE
ACTIVITIES

ORDER NO. 2009-0009-DWQ
NPDES NO. **CAS000002**

This Order was adopted by the State Water Resources Control Board on:	**September 2, 2009**
This Order shall become effective on:	**July 1, 2010**
This Order shall expire on:	**September 2, 2014**

IT IS HEREBY ORDERED, that this Order supersedes Order No. 99-08-DWQ except for enforcement purposes. The Discharger shall comply with the requirements in this Order to meet the provisions contained in Division 7 of the California Water Code (commencing with section 13000) and regulations adopted thereunder, and the provisions of the federal Clean Water Act and regulations and guidelines adopted thereunder.

I, Jeanine Townsend, Clerk to the Board, do hereby certify that this Order with all attachments is a full, true, and correct copy of an Order adopted by the State Water Resources Control Board, on September 2, 2009.

AYE: Vice Chair Frances Spivy-Weber
Board Member Arthur G. Baggett, Jr.
Board Member Tam M. Doduc

NAY: Chairman Charles R. Hoppin

ABSENT: None

ABSTAIN: None

Jeanine Townsend
Clerk to the Board

STATE WATER RESOURCES CONTROL BOARD
ORDER NO. 2009-0009-DWQ
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
GENERAL PERMIT NO. CAS000002

WASTE DISCHARGE REQUIREMENTS
FOR
DISCHARGES OF STORM WATER RUNOFF ASSOCIATED WITH CONSTRUCTION AND LAND DISTURBANCE ACTIVITIES

I. FINDINGS

A. General Findings

The State Water Resources Control Board (State Water Board) finds that:

1. The federal Clean Water Act (CWA) prohibits certain discharges of storm water containing pollutants except in compliance with a National Pollutant Discharge Elimination System (NPDES) permit (Title 33 United States Code (U.S.C.) §§ 1311 and 1342(p); also referred to as Clean Water Act (CWA) §§ 301 and 402(p)). The U.S. Environmental Protection Agency (U.S. EPA) promulgates federal regulations to implement the CWA's mandate to control pollutants in storm water runoff discharges. (Title 40 Code of Federal Regulations (C.F.R.) Parts 122, 123, and 124). The federal statutes and regulations require discharges to surface waters comprised of storm water associated with construction activity, including demolition, clearing, grading, and excavation, and other land disturbance activities (except operations that result in disturbance of less than one acre of total land area and which are not part of a larger common plan of development or sale), to obtain coverage under an NPDES permit. The NPDES permit must require implementation of Best Available Technology Economically Achievable (BAT) and Best Conventional Pollutant Control Technology (BCT) to reduce or eliminate pollutants in storm water runoff. The NPDES permit must also include additional requirements necessary to implement applicable water quality standards.

2. This General Permit authorizes discharges of storm water associated with construction activity so long as the dischargers comply with all requirements, provisions, limitations and prohibitions in the permit. In addition, this General Permit regulates the discharges of storm water associated with construction activities from all Linear Underground/Overhead Projects resulting in the disturbance of greater than or equal to one acre (Attachment A).

3. This General Permit regulates discharges of pollutants in storm water associated with construction activity (storm water discharges) to waters of the United States from construction sites that disturb one or more acres of land surface, or that are part of a common plan of development or sale that disturbs more than one acre of land surface.

4. This General Permit does not preempt or supersede the authority of local storm water management agencies to prohibit, restrict, or control storm water discharges to municipal separate storm sewer systems or other watercourses within their jurisdictions.

5. This action to adopt a general NPDES permit is exempt from the provisions of Chapter 3 of the California Environmental Quality Act (CEQA) (Public Resources Code Section 21100, et seq.), pursuant to Section 13389 of the California Water Code.

6. Pursuant to 40 C.F.R. § 131.12 and State Water Board Resolution No. 68-16,[1] which incorporates the requirements of § 131.12 where applicable, the State Water Board finds that discharges in compliance with this General Permit will not result in the lowering of water quality standards, and are therefore consistent with those provisions. Compliance with this General Permit will result in improvements in water quality.

7. This General Permit serves as an NPDES permit in compliance with CWA § 402 and will take effect on July 1, 2010 by the State Water Board provided the Regional Administrator of the U.S. EPA has no objection. If the U.S. EPA Regional Administrator objects to its issuance, the General Permit will not become effective until such objection is withdrawn.

8. Following adoption and upon the effective date of this General Permit, the Regional Water Quality Control Boards (Regional Water Boards) shall enforce the provisions herein.

9. Regional Water Boards establish water quality standards in Basin Plans. The State Water Board establishes water quality standards in various statewide plans, including the California Ocean Plan. U.S. EPA establishes water quality standards in the National Toxic Rule (NTR) and the California Toxic Rule (CTR).

[1] Resolution No. 68-16 generally requires that existing water quality be maintained unless degradation is justified based on specific findings.

STATE WATER RESOURCES CONTROL BOARD (STATE WATER BOARD)
WATER QUALITY ORDER NO. 97-03-DWQ
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
GENERAL PERMIT NO. CAS000001 (GENERAL PERMIT)

WASTE DISCHARGE REQUIREMENTS (WDRS)
FOR
DISCHARGES OF STORM WATER ASSOCIATED WITH INDUSTRIAL ACTIVITIES EXCLUDING CONSTRUCTION ACTIVITIES

The State Water Board finds that:

1. Federal regulations for storm water discharges were issued by the U.S. Environmental Protection Agency (U.S. EPA) on November 16, 1990 (40 Code of Federal Regulations [CFR] Parts 122, 123, and 124). The regulations require operators of specific categories of facilities where discharges of storm water associated with industrial activity (storm water) occur to obtain an NPDES permit and to implement Best Available Technology Economically Achievable (BAT) and Best Conventional Pollutant Control Technology (BCT) to reduce or prevent pollutants associated with industrial activity in storm water discharges and authorized non-storm discharges.

2. This General Permit shall regulate storm water discharges and authorized non-storm water discharges from specific categories of industrial facilities identified in Attachment 1, storm water discharges and authorized non-storm water discharges from facilities as designated by the Regional Water Quality Control Boards (Regional Water Boards), and storm water discharges and authorized non-storm water discharges from other facilities seeking General Permit coverage. This General Permit may also regulate storm water discharges and authorized non-storm water discharges from facilities as required by U.S. EPA regulations. This General Permit shall regulate storm water discharges and authorized non-storm water discharges previously regulated by San Francisco Bay Regional Water Board Order, No.92-11 (as amended by Order No. 92-116). This General Permit excludes storm water discharges and non-storm water discharges that are regulated by other individual or general NPDES permits, storm water discharges and non-storm water discharges from construction activities, and storm water discharges and non-storm water discharges excluded by the Regional Water Boards for coverage by this General Permit. Attachment 2 contains the addresses and telephone numbers of each Regional Water Board office.

3. To obtain coverage for storm water discharges and authorized non-storm water discharges pursuant to this General Permit, operators of facilities (facility operators) must submit a Notice of Intent (NOI), in accordance with the Attachment 3

11. Best Management Practices (BMPs) to reduce or prevent pollutants associated with industrial activity in storm water discharges and authorized non-storm water discharges are appropriate where numeric effluent limitations are infeasible, and the implementation of BMPs is adequate to achieve compliance with BAT/BCT and with water quality standards.

12. The State Water Board has adopted a Watershed Management Initiative that encourages watershed management throughout the State. This General Permit recognizes the Watershed Management Initiative by supporting the development of watershed monitoring programs authorized by the Regional Water Boards.

13. Following adoption of this General Permit, the Regional Water Boards shall enforce its provisions.

14. Following public notice in accordance with State and Federal laws and regulations, the State Water Board held a public hearing on November 12, 1996 and heard and considered all comments pertaining to this General Permit. A response to all significant comments has been prepared and is available for public review.

15. This Order is an NPDES General Permit in compliance with Section 402 of the CWA and shall take effect upon adoption by the State Water Board.

16. All terms that are defined in the CWA, U.S. EPA storm water regulations and the Porter-Cologne Water Quality Control Act will have the same definition in this General Permit unless otherwise stated.

IT IS HEREBY ORDERED that all facility operators required to be regulated by this General Permit shall comply with the following:

A. DISCHARGE PROHIBITIONS:

1. Except as allowed in Special Conditions (D.1.) of this General Permit, materials other than storm water (non-storm water discharges) that discharge either directly or indirectly to waters of the United States are prohibited. Prohibited non-storm water discharges must be either eliminated or permitted by a separate NPDES permit.

2. Storm water discharges and authorized non-storm water discharges shall not cause or threaten to cause pollution, contamination, or nuisance.

B. EFFLUENT LIMITATIONS:

1. Storm water discharges from facilities subject to storm water effluent limitation guidelines in Federal regulations (40 CFR

State of California
California Regional Water Quality Control Board, Los Angeles Region

RESOLUTION NO. 07-012
August 9, 2007

Amendment to the Water Quality Control Plan for the Los Angeles Region to Incorporate a Total Maximum Daily Load for Trash in the Los Angeles River Watershed

WHEREAS, the California Regional Water Quality Control Board, Los Angeles Region, finds that:

1. The Federal Clean Water Act (CWA) requires the California Regional Water Quality Control Board, Los Angles Region (Regional Board) to establish water quality standards for each water body within its region. Water quality standards include beneficial uses, water quality objectives that are established at levels sufficient to protect those beneficial uses, and an antidegradation policy to prevent degrading waters. Water bodies that do not meet water quality standards are considered impaired.

2. CWA section 303(d)(1) requires each state to identify the waters within its boundaries that do not meet water quality standards. Those waters are placed on the state's "303(d) List" or "Impaired Waters List". For each listed water, the state is required to establish the Total Maximum Daily Load (TMDL) of each pollutant impairing the water quality standards in that waterbody. Both the identification of impaired waters and TMDLs established for those water must be submitted to U.S. EPA for approval pursuant to CWA section 303(d)(2). For all waters that are not identified as impaired, the states are nevertheless required to create TMDLs pursuant to CWA section 303(d)(3).

3. A consent decree between the United States Environmental Protection Agency, Heal the Bay, Inc. and BayKeeper, Inc. was approved on March 22, 1999, which resolved litigation between those parties relating the pace of TMDL development. The court order directs the U.S. EPA to ensure that TMDLs for all 1998-listed impaired waters be established within 13 years of the decree. A schedule was established in the consent decree for the completion of TMDLs, including completion of a TMDL to reduce trash in water bodies of the Los Angeles River Watershed.

4. The elements of a TMDL are described in 40 CFR 130.2 and 130.7 and section 303(d)(1)(C) and (D) of the CWA, as well as in U.S. EPA guidance documents (Report No. EPA/440/4-91/001). A TMDL is defined as the sum of the individual waste load allocations for point sources, load allocations for nonpoint sources and natural background (40 CFR 130.2). TMDLs must be set at levels necessary to attain and maintain the applicable narrative and numeric water quality standards with seasonal variations and a margin of safety that takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality (40 CFR 130.7(c)(1)). 40 CFR 130.7 also dictates that TMDLs shall take into account critical conditions for stream flow, loading and water quality parameters. TMDLs typically include one or more numeric "targets", i.e.,

Attachment A to Resolution No. 07-012

Amendment to the Water Quality Control Plan – Los Angeles Region to incorporate the TMDL for Trash in the Los Angeles River Watershed

Adopted by the California Regional Water Quality Control Board, Los Angeles Region on August 9, 2007.

Amendments:

Table of Contents
Add:

Chapter 7. Total Maximum Daily Loads (TMDLs) Summaries
7-2 Los Angeles River Watershed Trash TMDL*

List of Figures, Tables and Inserts
Add:

Chapter 7. Total Maximum Daily Loads (TMDLs)
Tables
7-2 Los Angeles River Watershed Trash TMDL
7-2.1. Los Angeles River Watershed Trash TMDL Elements
7-2.2. Los Angeles River Watershed Trash TMDL Baseline Waste Load Allocations
7-2.3. Los Angeles River Watershed Trash TMDL Implementation Schedule

Chapter 3. Water Quality Objectives
Regional Objectives for Inland Surface Waters

Floating Material 3-9

A fourth paragraph will be added under Floating Material referencing specific guidelines for the Los Angeles River. Additional narrative to read: "See additional regulatory guidelines described under the Los Angeles River Trash Total Maximum Daily Load (Chapter 7)."

Solid, Suspended, or Settleable Materials 3-16

A fourth paragraph will be added under Solid, Suspended, or Settleable Materials referencing specific guidelines for the Los Angeles River. Additional narrative to read: "See additional regulatory guidelines described under the Los Angeles River Trash Total Maximum Daily Load (Chapter 7)."

* The complete administrative record for the TMDL is available for review upon request.

Attachment A to Resolution No. 2007-012

Table 7.2.3. Los Angeles River Trash TMDL: Implementation Schedule.[1]

(Required percent reductions based on initial baseline wasteload allocation of each city)

End of Storm Year	Implementation	Waste Load Allocation	Compliance Point
Sept 30, 2008	Implementation: Year 1	60% of Baseline Waste Load Allocations for the Municipal permittees; and Caltrans	Compliance is 60% of the baseline load
Sept 30, 2009	Implementation: Year 2	50% of Baseline Waste Load Allocations for the Municipal permittees; and Caltrans	Compliance is 55% of the baseline load calculated as a 2-year annual average
Sept 30, 2010	Implementation: Year 3[2]	40% of Baseline Waste Load Allocations for the Municipal permittees; and Caltrans	Compliance is 50% of the baseline load calculated as a rolling 3-year annual average
Sept 30, 2011	Implementation: Year 4	30% of Baseline Waste Load Allocations for the Municipal permittees; and Caltrans	Compliance is 40% of the baseline load calculated as a rolling 3-year annual average
Sept 30, 2012	Implementation: Year 5	20% of Baseline Waste Load Allocations for the Municipal permittees; and Caltrans	Compliance is 30% of the baseline load calculated as a rolling 3-year annual average
Sept 30, 2013	Implementation: Year 6	10% of Baseline Waste Load Allocations for the Municipal permittees; and Caltrans	Compliance is 20% of the baseline load calculated as a rolling 3-year annual average
Sept 30, 2014	Implementation: Year 7	0% of Baseline Waste Load Allocations for the Municipal permittees; and Caltrans	Compliance is 10% of the baseline load calculated as a rolling 3-year annual average
Sept 30, 2015	Implementation: Year 8	0% of Baseline Waste Load Allocations for the Municipal permittees; and Caltrans	Compliance is 3.3% of the baseline load calculated as a rolling 3-year annual average
Sept 30, 2016	Implementation: Year 9	0% of Baseline Waste Load Allocations for the Municipal permittees; and Caltrans	Compliance is 0% of the baseline load calculated as a rolling 3-year annual average

[1] "Notwithstanding the zero trash target and the baseline waste load allocations shown in Table 5, a Permittee will be deemed in compliance with the Trash TMDL in areas served by a Full Capture System within the Los Angeles River Watershed."

[2] As specified in Section VI.A., the Regional Board will review and reconsider the final Waste Load Allocations once a reduction of 50% has been achieved and sustained in the watershed.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

NOV 22 2002

OFFICE OF WATER

MEMORANDUM

SUBJECT: Establishing Total Maximum Daily Load (TMDL) Wasteload Allocations (WLAs) for Storm Water Sources and NPDES Permit Requirements Based on Those WLAs

FROM: Robert H. Wayland, III, Director
Office of Wetlands, Oceans and Watersheds

James A. Hanlon, Director
Office of Wastewater Management

TO: Water Division Directors
Regions 1 - 10

This memorandum clarifies existing EPA regulatory requirements for, and provides guidance on, establishing wasteload allocations (WLAs) for storm water discharges in total maximum daily loads (TMDLs) approved or established by EPA. It also addresses the establishment of water quality-based effluent limits (WQBELs) and conditions in National Pollutant Discharge Elimination System (NPDES) permits based on the WLAs for storm water discharges in TMDLs. The key points presented in this memorandum are as follows:

NPDES-regulated storm water discharges must be addressed by the wasteload allocation component of a TMDL. See 40 C.F.R. § 130.2(h).

NPDES-regulated storm water discharges may not be addressed by the load allocation (LA) component of a TMDL. See 40 C.F.R. § 130.2 (g) & (h).

Storm water discharges from sources that are not currently subject to NPDES regulation may be addressed by the load allocation component of a TMDL. See 40 C.F.R. § 130.2(g).

It may be reasonable to express allocations for NPDES-regulated storm water discharges from multiple point sources as a single categorical wasteload allocation when data and information are insufficient to assign each source or outfall individual WLAs. See 40 C.F.R. § 130.2(i). In cases where wasteload allocations

are developed for categories of discharges, these categories should be defined as narrowly as available information allows.

The WLAs and LAs are to be expressed in numeric form in the TMDL. See 40 C.F.R. § 130.2(h) & (i). EPA expects TMDL authorities to make separate allocations to NPDES- regulated storm water discharges (in the form of WLAs) and unregulated storm water (in the form of LAs). EPA recognizes that these allocations might be fairly rudimentary because of data limitations and variability in the system.

NPDES permit conditions must be consistent with the assumptions and requirements of available WLAs. See 40 C.F.R. § 122.44(d)(1)(vii)(B).

WQBELs for NPDES-regulated storm water discharges that implement WLAs in TMDLs may be expressed in the form of best management practices (BMPs) under specified circumstances. See 33 U.S.C. §1342(p)(3)(B)(iii); 40 C.F.R. §122.44(k)(2)&(3). If BMPs alone adequately implement the WLAs, then additional controls are not necessary.

EPA expects that most WQBELs for NPDES-regulated municipal and small construction storm water discharges will be in the form of BMPs, and that numeric limits will be used only in rare instances.

When a non-numeric water quality-based effluent limit is imposed, the permit's administrative record, including the fact sheet when one is required, needs to support that the BMPs are expected to be sufficient to implement the WLA in the TMDL. See 40 C.F.R. §§ 124.8, 124.9 & 124.18.

The NPDES permit must also specify the monitoring necessary to determine compliance with effluent limitations. See 40 C.F.R. § 122.44(i). Where effluent limits are specified as BMPs, the permit should also specify the monitoring necessary to assess if the expected load reductions attributed to BMP implementation are achieved (e.g., BMP performance data).

The permit should also provide a mechanism to make adjustments to the required BMPs as necessary to ensure their adequate performance.

This memorandum is organized as follows:

(I). Regulatory basis for including NPDES-regulated storm water discharges in WLAs in TMDLs;

(II). Options for addressing storm water in TMDLs; and

(III). Determining effluent limits in NPDES permits for storm water discharges consistent with the WLA

(I). Regulatory Basis for Including NPDES-regulated Storm Water Discharges in WLAs in TMDLs

As part of the 1987 amendments to the CWA, Congress added Section 402(p) to the Act to cover discharges composed entirely of storm water. Section 402(p)(2) of the Act requires permit coverage for discharges associated with industrial activity and discharges from large and medium municipal separate storm sewer systems (MS4), i.e., systems serving a population over 250,000 or systems serving a population between 100,000 and 250,000, respectively. These discharges are referred to as Phase I MS4 discharges.

In addition, the Administrator was directed to study and issue regulations that designate additional storm water discharges, other than those regulated under Phase I, to be regulated in order to protect water quality. EPA issued regulations on December 8, 1999 (64 FR 68722), expanding the NPDES storm water program to include discharges from smaller MS4s (including all systems within "urbanized areas" and other systems serving populations less than 100,000) and storm water discharges from construction sites that disturb one to five acres, with opportunities for area-specific exclusions. This program expansion is referred to as Phase II.

Section 402(p) also specifies the levels of control to be incorporated into NPDES storm water permits depending on the source (industrial versus municipal storm water). Permits for storm water discharges associated with industrial activity are to require compliance with all applicable provisions of Sections 301 and 402 of the CWA, i.e., all technology-based and water quality-based requirements. See 33 U.S.C. §1342(p)(3)(A). Permits for discharges from MS4s, however, "shall require controls to reduce the discharge of pollutants to the maximum extent practicable ... and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants." See 33 U.S.C. §1342(p)(3)(B)(iii).

Storm water discharges that are regulated under Phase I or Phase II of the NPDES storm water program are point sources that must be included in the WLA portion of a TMDL. See 40 C.F.R. § 130.2(h). Storm water discharges that are not currently subject to Phase I or Phase II of the NPDES storm water program are not required to obtain NPDES permits. 33 U.S.C. §1342(p)(1) & (p)(6). Therefore, for regulatory purposes, they are analogous to nonpoint sources and may be included in the LA portion of a TMDL. See 40 C.F.R. § 130.2(g).

(II). Options for Addressing Storm Water in TMDLs

Decisions about allocations of pollutant loads within a TMDL are driven by the quantity and quality of existing and readily available water quality data. The amount of storm water data available for a TMDL varies from location to location. Nevertheless, EPA expects TMDL authorities will make separate aggregate allocations to NPDES-regulated storm water discharges

(in the form of WLAs) and unregulated storm water (in the form of LAs). It may be reasonable to quantify the allocations through estimates or extrapolations, based either on knowledge of land use patterns and associated literature values for pollutant loadings or on actual, albeit limited, loading information. EPA recognizes that these allocations might be fairly rudimentary because of data limitations.

EPA also recognizes that the available data and information usually are not detailed enough to determine waste load allocations for NPDES-regulated storm water discharges on an outfall-specific basis. In this situation, EPA recommends expressing the wasteload allocation in the TMDL as either a single number for all NPDES-regulated storm water discharges, or when information allows, as different WLAs for different identifiable categories, e.g., municipal storm water as distinguished from storm water discharges from construction sites or municipal storm water discharges from City A as distinguished from City B. These categories should be defined as narrowly as available information allows (e.g., for municipalities, separate WLAs for each municipality and for industrial sources, separate WLAs for different types of industrial storm water sources or dischargers).

(III). Determining Effluent Limits in NPDES Permits for Storm Water Discharges Consistent with the WLA

Where a TMDL has been approved, NPDES permits must contain effluent limits and conditions consistent with the requirements and assumptions of the wasteload allocations in the TMDL. See 40 CFR § 122.44(d)(1)(vii)(B). Effluent limitations to control the discharge of pollutants generally are expressed in numerical form. However, in light of 33 U.S.C. §1342(p)(3)(B)(iii), EPA recommends that for NPDES-regulated municipal and small construction storm water discharges effluent limits should be expressed as best management practices (BMPs) or other similar requirements, rather than as numeric effluent limits. See *Interim Permitting Approach for Water Quality-Based Effluent Limitations in Storm Water Permits*, 61 FR 43761 (Aug. 26, 1996). The Interim Permitting Approach Policy recognizes the need for an iterative approach to control pollutants in storm water discharges. Specifically, the policy anticipates that a suite of BMPs will be used in the initial rounds of permits and that these BMPs will be tailored in subsequent rounds.

EPA's policy recognizes that because storm water discharges are due to storm events that are highly variable in frequency and duration and are not easily characterized, only in rare cases will it be feasible or appropriate to establish numeric limits for municipal and small construction storm water discharges. The variability in the system and minimal data generally available make it difficult to determine with precision or certainty actual and projected loadings for individual dischargers or groups of dischargers. Therefore, EPA believes that in these situations, permit limits typically can be expressed as BMPs, and that numeric limits will be used only in rare instances.

Under certain circumstances, BMPs are an appropriate form of effluent limits to control pollutants in storm water. See 40 CFR § 122.44(k)(2) & (3). If it is determined that a BMP approach (including an iterative BMP approach) is appropriate to meet the storm water component of the TMDL, EPA recommends that the TMDL reflect this.

EPA expects that the NPDES permitting authority will review the information provided by the TMDL, see 40 C.F.R. § 122.44(d)(1)(vii)(B), and determine whether the effluent limit is appropriately expressed using a BMP approach (including an iterative BMP approach) or a numeric limit. Where BMPs are used, EPA recommends that the permit provide a mechanism to require use of expanded or better-tailored BMPs when monitoring demonstrates they are necessary to implement the WLA and protect water quality.

Where the NPDES permitting authority allows for a choice of BMPs, a discussion of the BMP selection and assumptions needs to be included in the permit's administrative record, including the fact sheet when one is required. 40 C.F.R.§§ 124.8, 124.9 & 124.18. For general permits, this may be included in the storm water pollution prevention plan required by the permit. See 40 C.F.R. § 122.28. Permitting authorities may require the permittee to provide supporting information, such as how the permittee designed its management plan to address the WLA(s). See 40 C.F.R. § 122.28. The NPDES permit must require the monitoring necessary to assure compliance with permit limitations, although the permitting authority has the discretion under EPA's regulations to decide the frequency of such monitoring. See 40 CFR § 122.44(i). EPA recommends that such permits require collecting data on the actual performance of the BMPs. These additional data may provide a basis for revised management measures. The monitoring data are likely to have other uses as well. For example, the monitoring data might indicate if it is necessary to adjust the BMPs. Any monitoring for storm water required as part of the permit should be consistent with the state's overall assessment and monitoring strategy.

The policy outlined in this memorandum affirms the appropriateness of an iterative, adaptive management BMP approach, whereby permits include effluent limits (e.g., a combination of structural and non-structural BMPs) that address storm water discharges, implement mechanisms to evaluate the performance of such controls, and make adjustments (i.e., more stringent controls or specific BMPs) as necessary to protect water quality. This approach is further supported by the recent report from the National Research Council (NRC), *Assessing the TMDL Approach to Water Quality Management* (National Academy Press, 2001). The NRC report recommends an approach that includes "adaptive implementation," i.e., "a cyclical process in which TMDL plans are periodically assessed for their achievement of water quality standards" . . . and adjustments made as necessary. *NRC Report* at ES-5.

This memorandum discusses existing requirements of the Clean Water Act (CWA) and codified in the TMDL and NPDES implementing regulations. Those CWA provisions and regulations contain legally binding requirements. This document describes these requirements; it does not substitute for those provisions or regulations. The recommendations in this memorandum are not binding; indeed, there may be other approaches that would be appropriate

in particular situations. When EPA makes a TMDL or permitting decision, it will make each decision on a case-by-case basis and will be guided by the applicable requirements of the CWA and implementing regulations, taking into account comments and information presented at that time by interested persons regarding the appropriateness of applying these recommendations to the particular situation. EPA may change this guidance in the future.

If you have any questions please feel free to contact us or Linda Boornazian, Director of the Water Permits Division or Charles Sutfin, Director of the Assessment and Watershed Protection Division.

cc:
Water Quality Branch Chiefs
Regions 1 - 10

Permit Branch Chiefs
Regions 1 - 10