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RECEIVED
March 28, 2017
**Commission on
State Mandates**

WRITER'S DIRECT NUMBER
(213) 629-8788

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

March 28, 2017

VIA DROPBOX

Ms. Heather Halsey
Executive Director
Commission on State Mandates
980 9th Street, Suite 300
Sacramento, CA 95814

Re: Santa Ana Region Water Permit – County of Riverside, 10-TC-07
Response of Joint Test Claimants to Notice of Incomplete Joint
Test Claim Filing

Dear Ms. Halsey:

I have been designated as Claimant Representative by all test claimants in the above-referenced Joint Test Claim and am therefore responding on behalf of the Riverside County Flood Control and Water Conservation District (“District”), the County of Riverside (“County”) and the Cities of Beaumont, Corona, Hemet, Lake Elsinore, Moreno Valley, Perris and San Jacinto (the “Joint Test Claimants”) to the Notice of Incomplete Joint Test Claim Filing dated February 8, 2017 (“Notice Letter”), which stated that the original joint test claim filing was incomplete on two grounds.¹

The Joint Test Claimants were originally informed that their test claim was deemed complete as of February 16, 2011. The Notice Letter required the Joint Test Claimants to undertake significant efforts, including locating old financial records and preparing new declarations, test claim forms and revisions to the Narrative Statement. The Joint Test Claimants thus incurred significant, unforeseeable costs to address the issues raised in the Notice Letter or risk having the test claim rejected for the reasons stated in the Notice Letter. The Joint Test Claimants respectfully disagree as to the basis

¹ As noted in my letter to you of February 9, 2017 confirming a conversation with Heidi Palchik of your staff, the Joint Test Claimants are not required to address the dates on which increased costs were first incurred, since the test claim was filed within one year of the effective date of the permit at issue.

Ms. Heather Halsey

Page 2

March 28, 2017

for the Notice Letter on grounds of law and equity, and reserve their right to contest the alleged deficiencies identified in the Notice Letter before the Commission.

Notwithstanding such reservation, and subject to it, the Joint Test Claimants submit with this letter the following new or revised documents:

- (a) New Test Claim Forms;
- (b) Revised Section 5 Narrative Statement; and
- (c) New Section 6 Declarations.

As requested in the Notice Letter, the Joint Test Claimants are not re-attaching any supporting documentation, including exhibits.

The Notice Letter indicated that to cure the alleged deficiencies in the original test claim, the Joint Test Claimants were to provide:

1. "A revised test claim form from each co-claimant."
2. "Revised written narratives and declarations that provide a detailed description of the costs that are modified by the alleged mandate including the *actual* increased costs incurred by each co-claimant during the fiscal year for which the joint test claim was filed as well as the actual or estimated annual costs that will be incurred by each co-claimant to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the joint test claim was filed. In addition, please provide the statewide cost estimate (in this case the "statewide cost" is the cost for all of the local agency co-permittees, whether named or not, for the alleged new program or higher level of service imposed by the permit at issue) for increased costs to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the joint test claim was filed."

Notice Letter, pp. 4-5, emphasis in original.

In response to item 1, and notwithstanding the addition in 2014 of 2 CCR § 1183.1(b), which necessitated designation of one claimant representative for joint test claimants, the Joint Test Claimants herewith file new test claim forms signed for the District by its General Manager-Chief Engineer, for the County by the Auditor-Controller and for the cities by their respective City Managers. The names, addresses and contact information for these individuals are set forth in Section 2 of the forms. Additionally, as noted above, I am designated as the Claimant Representative for all Joint Test Claimants in Section 3 of each of the forms.

In response to item 2, as already noted, both the Declarations and the Section 5 Narrative Statement (in revised sections following the description of each mandated

Ms. Heather Halsey

Page 3

March 28, 2017

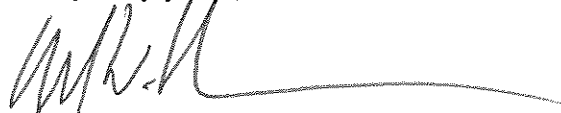
activity) set forth the actual increased costs incurred in the relevant fiscal years covered by the Joint Test Claim. Also, costs representing the Joint Test Claimants' best estimate of total statewide costs associated with the Joint Test Claim are set forth in Section VII of the Narrative Statement and are further supported by the Declarations. Further, the Narrative Statement sets forth various jurisdictional matters in new Sections I.A-C. We note that while the decision of the Supreme Court in *Department of Finance v. Commission on State Mandates* (2016) 1 Cal.5th 749 is relevant to numerous elements of the Narrative Statement, the decision is not discussed therein. Instead, the Joint Test Claimants will address that case in subsequent pleadings.

The Joint Test Claimants wish to thank you for your courtesy in extending the deadline for the submission of this response. While the Joint Test Claimants are responding by the March 28 deadline, we respectfully submit that this deadline is not jurisdictional, both because the regulatory authority cited in the Notice Letter applies only to the initial determination of test claim completeness and because the Executive Director has discretion to extend the 30-day time period within which to cure a returned test claim and still allow the test claimant to preserve the original claim filing date.

Nevertheless, we believe that the information and evidence submitted herewith fully address the issues identified in the Notice Letter. If there are any further concerns or issues regarding these matters, please contact the undersigned.

Thank you for your consideration of these matters.

Very truly yours,

A handwritten signature in black ink, appearing to read 'David W. Burhenn', with a long horizontal flourish extending to the right.

David W. Burhenn

DB:dwb

Santa Ana Region Water Permit - County of
Riverside, 10-TC-07

Riverside Co. Flood Control and Water Conservation Dist.

Name of Local Agency or School District

Jason Uhley, P.E.

Claimant Contact

General Manager-Chief Engineer

Title

1995 Market Street

Street Address

Riverside, CA 92501

City, State, Zip

951-955-1201

Telephone Number

951-788-9965

Fax Number

juhley@rivco.org

E-Mail Address

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.

David W. Burhenn

Claimant Representative Name

Partner

Title

Burhenn & Gest LLP

Organization

624 S. Grand Avenue, Suite 2200

Street Address

Los Angeles, CA 90017

City, State, Zip

213-629-8788

Telephone Number

213-624-1376

Fax Number

dburhenn@burhenngest.com

E-Mail Address

For CSM Use Only

Filing Date:

Test Claim #:

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.

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

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 _____.

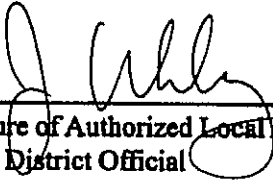
7. Documentation: pages _____ to _____.

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.

Jason Uhley, P.E.

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



Signature of Authorized Local Agency or
School District Official

General Manager-Chief Engineer

Print or Type Title

March 23, 2017

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.***

TEST CLAIM NUMBER

Santa Ana Region Water Permit - County of Riverside, 10-TC-07

CLAIMANT INFORMATION

County of Riverside

Name of Local Agency or School District

Paul Angulo, CPA

Claimant Contact

Auditor-Controller

Title

4080 Lemon Street, 11th Floor

Street Address

Riverside, CA 92502

City, State, Zip

951-955-3800

Telephone Number

951-955-3802

Fax Number

pangulo@rivco.org or jmarcy@rivco.org

E-Mail Address

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.

David W. Burhenn

Claimant Representative Name

Partner

Title

Burhenn & Gest LLP

Organization

624 S. Grand Avenue, Suite 2200

Street Address

Los Angeles, CA 90017

City, State, Zip

213-629-8788

Telephone Number

213-624-1376

Fax Number

dburhenn@burhenngest.com

E-Mail Address

For CSM Use Only

Filing Date:

Test Claim #:

TEST CLAIM NARRATIVE 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.

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

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6. Declarations: pages ____ to ____.

7. Documentation: pages ____ to ____.

CLAIMANT CERTIFICATION

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

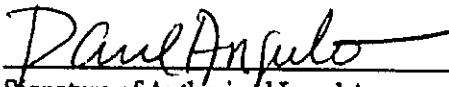
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Paul Angulo, CPA

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

Auditor-Controller

Print or Type Title



Signature of Authorized Local Agency or
School District Official

March 28, 2017

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

Santa Ana Region Water Permit - County
of Riverside, 10-TC-07

2. CLAIMANT INFORMATION

City of Beaumont

Name of Local Agency or School District

Todd Parton

Claimant Contact

City Manager

Title

550 E. 6th Street

Street Address

Beaumont, CA. 92223

City, State, Zip

(951) 769-8520

Telephone Number

(951) 769-8526

Fax Number

TParton@ci.beaumont.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.

David W. Burhenn

Claimant Representative Name

Partner

Title

Burhenn & Gest LLP

Organization

624 S. Grand Avenue, Suite 2200

Street Address

Los Angeles, CA. 90017

City, State, Zip

(213) 629-8788

Telephone Number

(213) 624-1376

Fax Number

dburhenn@burhenngest.com

E-Mail Address

For CSM Use Only

Filing Date:

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.

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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.

Todd Parton

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

March 23, 2017

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

Santa Ana Region Water Permit - County of Riverside, 10-TC-07

2. CLAIMANT INFORMATION

City of Corona

Name of Local Agency or School District

Darrell Talbert

Claimant Contact

City Manager

Title

400 South Vicentia Avenue

Street Address

Corona, CA 92882

City, State, Zip

951-279-3670

Telephone Number

951-736-2493

Fax Number

darrell.talbert@ci.corona.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.

David W. Burhenn

Claimant Representative Name

Partner

Title

Burhenn & Gest LLP

Organization

624 S. Grand Avenue, Suite 2200

Street Address

Los Angeles, CA 90017

City, State, Zip

213-629-8788

Telephone Number

213-624-1376

Fax Number

dburhenn@burhennigest.com

E-Mail Address

For CSM Use Only

Filing Date:

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.

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

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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.

Darrell Talbert

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



Signature of Authorized Local Agency or
School District Official

City Manager

Print or Type Title

March 21, 2017

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

Santa Ana Region Water Permit - County of Riverside, 10-TC-07

2. CLAIMANT INFORMATION

City of Hemet

Name of Local Agency or School District

Alexander P. Meyerhoff

Claimant Contact

City Manager

Title

445 E. Florida Avenue

Street Address

Hemet, CA 92543

City, State, Zip

951-765-2301

Telephone Number

951-765-3785

Fax Number

ameyerhoff@cityofhemet.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.

David W. Burhenn

Claimant Representative Name

Partner

Title

Burhenn & Gest LLP

Organization

624 S. Grand Avenue, Suite 2200

Street Address

Los Angeles, CA 90017

City, State, Zip

213-629-8788

Telephone Number

213-624-1376

Fax Number

dburhenn@burhenngest.com

E-Mail Address

For CSM Use Only

Filing Date:

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 .

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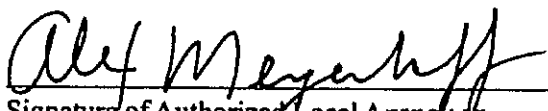
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Alexander P. Meyerhoff

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

March 22, 2017

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

Santa Ana Region Water permit - County of Riverside 10-TC-07

2. CLAIMANT INFORMATION

City of Lake Elsinore

Name of Local Agency or School District

Grant M. Yates

Claimant Contact

City Manager

Title

130 South Main Street

Street Address

Lake Elsinore, CA, 92530

City, State, Zip

951-674-3124 ext. 361

Telephone Number

951-674-2392

Fax Number

gyates@lake-elsinore.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.

David W. Burhenn

Claimant Representative Name

Partner

Title

Burhenn & Gest LLP

Organization

624 S. Grand Avenue, Suite 2200

Street Address

Los Angeles, CA 90017

City, State, Zip

213-629-8788

Telephone Number

213-624-1376

Fax Number

dburhenn@burhenngest.com

E-Mail Address

For CSM Use Only

Filing Date:

Test Claim #:

4. TEST CLAIM STATUTES OR EXECUTIVE ORDERS CITED

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Grant M. Yates

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



Signature of Authorized Local Agency or
School District Official

City Manager

Print or Type Title

3/22/17

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.*



Santa Ana Region Water Permit - County of Riverside, 10-TC-07



Moreno Valley

Name of Local Agency or School District

Michelle Dawson

Claimant Contact

City Manager

Title

14177 Frederick Street

Street Address

Moreno Valley CA 92552-0805

City, State, Zip

951.413.3020

Telephone Number

951.413.3750

Fax Number

michelled@moval.org

E-Mail Address



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.

David W. Burhenn

Claimant Representative Name

Partner

Title

Burhenn & Gest LLP

Organization

624 S. Grand Avenue Suite 2200

Street Address

Los Angeles CA 90017

City, State, Zip

213.629.8788

Telephone Number

213.624.1376

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dburhenn@burhennigest.com

E-Mail Address

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Michelle Dawson

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

City Manager

Print or Type Title

Michelle Dawson

Signature of Authorized Local Agency or
School District Official

March 22, 2017

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

Santa Ana Region Water Permit - County of Riverside, 10-TC-07

2. CLAIMANT INFORMATION

City of Perris

Name of Local Agency or School District

Richard Belmudez

Claimant Contact

City Manager

Title

101 N. D Street

Street Address

Perris, CA 92570

City, State, Zip

(951) 943-6100

Telephone Number

(951) 943-3293

Fax Number

rbelmudez@cityofperris.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.

David W. Burhenn

Claimant Representative Name

Partner

Title

Burhenn & Gest LLP

Organization

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Los Angeles, CA 90017

City, State, Zip

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Telephone Number

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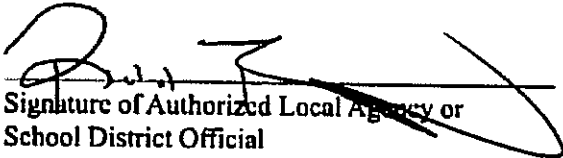
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Richard Belmudez

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

March 21, 2017

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

Santa Ana Region Water Permit - County of
Riverside, 10-TC-07

2. CLAIMANT INFORMATION

City of San Jacinto

Name of Local Agency or School District

Rob Johnson

Claimant Contact

City Manager

Title

595 S. San Jacinto Ave., Bldg. A

Street Address

San Jacinto, CA 92583

City, State, Zip

(951) 487-7330

Telephone Number

(951) 487-7382

Fax Number

rjohnson@sanjacintoca.us

E-Mail Address

B. 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.

David W. Burhenn

Claimant Representative Name

Partner

Title

Burhenn & Gest LLP

Organization

624 S. Grand Avenue, Suite 220

Street Address

Los Angeles, CA 90017

City, State, Zip

(213) 629-8788

Telephone Number

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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.

Rob Johnson

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



Signature of Authorized Local Agency or
School District Official

City Manager

Print or Type Title

March 28, 2017

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.*

NARRATIVE STATEMENT

In Support of Joint Test Claim of Riverside County Local
Agencies Concerning Santa Ana RWQCB Order No. R8-2010-
0033 (NPDES No. CAS 618033), Santa Ana Water Permit –
County of Riverside, 10-TC-07

TABLE OF CONTENTS

	PAGE
I. INTRODUCTION	1
A. STATEMENT OF INTEREST OF JOINT TEST CLAIMANTS.....	2
B. STATEMENT OF ACTUAL AND/OR ESTIMATED COSTS EXCEEDING \$1,000	2
C. THE TEST CLAIM WAS TIMELY FILED	3
II. BACKGROUND	3
III. FEDERAL LAW	3
IV. CALIFORNIA LAW	4
V. STATE MANDATE LAW	4
VI. STATE MANDATED ACTIVITIES	7
A. Local Implementation Plan Requirement	7
1. Applicable Requirements in the 2010 Permit	7
2. Requirements of Federal Law	11
3. Requirements of 2002 Permit	12
4. Mandated Activities	12
5. Actual Increased Costs of Mandate	13
B. Potential Promulgation and Implementation of Ordinances to Address Bacteria Sources	13
1. Applicable Requirements in 2010 Permit	13
2. Requirements of Federal Law	13
3. Requirements of 2002 Permit	14

Section 5: Narrative Statement In Support of Joint Test Claim of Riverside County Local Agencies
Concerning Santa Ana RWQCB Order No. R8-2010-0033 (NPDES No. CAS 618033), Santa Ana Water
Permit – County of Riverside, 10-TC-07

4.	Mandated Activities	14
5.	Actual Increased Costs of Mandate	14
C.	Incorporation of IDDE Program to Enhance Illicit Connections/Illegal Discharges Requirements.....	14
1.	Applicable Requirements in 2010 Permit.....	14
2.	Requirements of Federal Law	15
3.	Requirements of 2002 Permit	16
4.	Mandated Activities	16
5.	Actual Increased Costs of Mandate	17
D.	Creation of Septic System Database	17
1.	Applicable Requirements in 2010 Permit.....	17
2.	Requirements of Federal Law	17
3.	Requirements of 2002 Permit	17
4.	Mandated Activities	18
5.	Actual Increased Costs of Mandate	18
E.	Enhanced Permittee Inspection Requirements.....	18
1.	Applicable Requirements in 2010 Permit.....	18
2.	Requirements of Federal Law	18
3.	Requirements of 2002 Permit	19
4.	Mandated Activities	19
5.	Actual Increased Costs of Mandate	20
F.	Enhanced New Development Requirements	20
1.	Applicable Requirements in 2010 Permit.....	20

Section 5: Narrative Statement In Support of Joint Test Claim of Riverside County Local Agencies
Concerning Santa Ana RWQCB Order No. R8-2010-0033 (NPDES No. CAS 618033), Santa Ana Water
Permit – County of Riverside, 10-TC-07

2.	Requirements of Federal Law	28
3.	Requirements of 2002 Permit	31
4.	Mandated Activities	31
5.	Actual Increased Costs of Mandate	32
G.	Training Program Enhancement	33
1.	Requirements of 2010 Permit	33
2.	Requirements of Federal Law	34
3.	Requirements of 2002 Permit	34
4.	Mandated Activities	34
5.	Actual Increased Costs of Mandate	34
H.	Program Management Assessment	34
1.	Requirements of 2010 Permit	34
2.	Requirements of Federal Law	35
3.	Requirement of 2002 Permit	35
4.	Mandated Activities	35
5.	Actual Increased Costs of Mandate	35
VII.	STATEWIDE COST ESTIMATE	36
VIII.	FUNDING SOURCES	36
IX.	PRIOR MANDATE DETERMINATIONS	36
A.	Los Angeles County Test Claim	36
B.	San Diego County Test Claim	36
X.	CONCLUSION	37

NARRATIVE STATEMENT IN SUPPORT OF JOINT TEST CLAIM

I. INTRODUCTION

On January 29, 2010, the California Regional Water Quality Control Board, Santa Ana Region (“Santa Ana RWQCB”), adopted a new storm water permit, Order No. R8-2010-0033 (NPDES No. CAS 618033) (“the 2010 Permit”) regulating discharges from the municipal separate storm sewer systems (“MS4s”) operated by a number of municipal entities in portions of Riverside County.¹

The 2010 Permit includes numerous new requirements that exceed the requirements of federal law and were not included in the previous MS4 permit issued by the Santa Ana RWQCB, Order No. R8-2002-0011 (“the 2002 Permit”).² These new requirements represent unfunded State mandates for which the 2010 Permit permittees, including the claimants herein, the Riverside County Flood Control and Water Conservation District (“District”), the County of Riverside (“County”), and the Cities of Beaumont, Corona, Hemet, Lake Elsinore, Moreno Valley, Perris and San Jacinto (collectively, “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. The mandates for which the claimants seek a subvention of state funds are described in detail below, but generally encompass the following:

- A. A requirement to develop and update Local Implementation Plans, primarily set forth in Section IV of the 2010 Permit, as well as other sections;
- B. A requirement, if necessary, to promulgate and implement ordinances to address pathogen or bacterial indicator sources such as animal wastes, contained in Section VIII;
- C. Requirements relating to the development and implementation of a program to enhance existing Illicit Connections/Illegal Discharges programs, contained in Section IX;
- D. A requirement for the County to create and maintain a database of new septic systems approved since 2008, contained in Section X;
- E. Requirements relating to the creation of new criteria, best management practices (“BMPs”), fee programs, identification of facilities, enforcement strategies, evaluation and

¹ A copy of the 2010 Permit and Fact Sheet are included in Section 7, filed herewith. The permittees regulated under the 2010 Permit are the District, the County and the Cities of Beaumont, Calimesa, Canyon Lake, Corona, Hemet, Lake Elsinore, Menifee, Moreno Valley, Murrieta, Norco, Perris, Riverside and San Jacinto. The City of Wildomar, originally a permittee, is now regulated under a MS4 permit issued by the California Regional Water Quality Control Board, San Diego Region.

² A copy of the 2002 Permit is included in Section 7.

reporting concerning the inspection of construction, industrial, commercial and residential facilities, contained in Section XI;

F. Requirements to, among other things, develop new standard designs and BMPs, a Watershed Action Plan, review planning documents to incorporate watershed protection principles, submit revised Water Quality Management Plans (“WQMPs”), develop new procedures, incorporate Low Impact Development (“LID”) and hydromodification requirements to public agency projects, develop criteria for alternatives and in-lieu funding, create databases and inspect public projects, contained in Section XII;

G. Requirements for training in WQMP review and CEQA requirements, contained in Section XV; and

H. Requirements for an assessment of urban runoff management program effectiveness on an area wide as well as a jurisdiction-specific basis, contained in Section XVII.

A. STATEMENT OF INTEREST OF JOINT TEST CLAIMANTS

This test claim is being filed by Claimants District, County and Cities of Beaumont, Corona, Hemet, Lake Elsinore, Moreno Valley, Perris and San Jacinto. The Claimants are filing this Test Claim jointly and, pursuant to Cal. Code Regs., tit. 2, § 1183.1, subd. (g), attest to the following:

1. The Claimants allege state-mandated costs resulting from the same Executive Order, *i.e.*, the 2010 Permit;
2. The Claimants agree on all issues of the Test Claim; and
3. The Claimants have designated one contact person to act as a resource for information regarding the test claim in Section 3 of their Test Claim forms.
4. All Test Claim forms have been executed, respectively, by the Auditor-Controller (on behalf of the County), the General Manager-Chief Engineer (on behalf of the District) and by City Managers (on behalf of the city Claimants). All such individuals are authorized to sign on behalf of their respective Claimants. Cal. Code Regs., tit. 2, § 1183.1, subd. (a)(5).

B. STATEMENT OF ACTUAL AND/OR ESTIMATED COSTS EXCEEDING \$1,000

The Claimants further state that, as set forth below and in the attached Section 6 Declarations filed herewith in support, the actual and/or estimated costs from the state mandates set forth in this Test Claim exceed \$1,000 for each of the Claimants. This Narrative Statement sets forth specific and estimated amounts expended by the Claimants as determined from the perusal of pertinent records and as disclosed in the Section 6 Declarations filed herewith, including in the Declaration of David Garcia. The Claimants respectfully reserve the right to modify such

amounts when or if additional information is received and to adduce additional evidence of costs if required in the course of the Test Claim.

C. THE TEST CLAIM WAS TIMELY FILED

The Test Claim was filed on January 31, 2011, within one year after adoption of the Permit.³ It was thus timely filed. Cal. Code Regs., tit. 2, § 1183.1, subd. (b).

II. BACKGROUND

This Test Claim concerns the choice made by the Santa Ana RWQCB, acting under its authority granted by California law, to impose requirements under the 2010 Permit that go beyond those required by the federal Clean Water Act. The Santa Ana RWQCB has such authority because, under the Porter-Cologne Water Quality Act, California Water Code § 13000 et seq., a regional board may impose additional requirements on a permittee covered by a federal National Pollutant Discharge Elimination System (“NPDES”) permit, such as the 2010 Permit. *City of Burbank v. State Water Resources Control Board* (2005) 35 Cal. 4th 613, 619. As the California Supreme Court noted in *City of Burbank*,

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).³

City of Burbank, 35 Cal.4th at 627-28.

This Commission previously has found, in two test claims brought regarding MS4 permits issued by the Los Angeles RWQCB and the San Diego RWQCB, that those regional boards had issued permit requirements that exceeded the requirements of federal law and regulation and represented 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”).

III. FEDERAL LAW

The 2010 Permit at issue in this Test Claim was issued, in part, under the authority of the federal Clean Water Act, 33 U.S.C. § 1251 et seq. (“CWA”). The CWA was amended in 1987 to include within its regulation of discharges from “point sources” to “waters of the United States” discharges to such waters from MS4s. 33 U.S.C. § 1342(p)(2). The CWA requires that MS4 permits:

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

³ Including two additional days because of a weekend.

(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 2010 Permit is an example of a “Phase I” permit, those issued to MS4s serving larger urban populations, as is the case with the Riverside County MS4 systems. 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 2010 Permit relevant to this test Claim, will be discussed in further depth below.

IV. CALIFORNIA LAW

The CWA allows delegation of its NPDES permit powers to the states. 33 U.S.C. § 1342(b). Pursuant to that delegation, in 1972, California became the first state authorized to issue NPDES permits through an amendment of the existing Porter-Cologne Water Quality Act. California Water Code § 13370. The Porter-Cologne Act, adopted in 1969, pre-dated the CWA delegation by three years.

The Porter-Cologne Act’s scope is broader than that of the CWA, as it applies not only to navigable surface waters (the scope of permits issued under the NPDES program) but to any “waters of the state,” including “any surface water or groundwater, including saline waters, within the boundaries of the state.” Water Code § 13050(e). The 2010 Permit, in addition to being issued as an NPDES permit under the authority of the CWA, also was issued by the Santa Ana RWQCB as a “waste discharge requirement,” pursuant to the authority of Article 4, Chapter 4, Division 7 of the California Water Code, commencing with California Water Code § 13260. *See also* California Water Code § 13263. Thus, the 2010 Permit may, and does, contain programs both authorized under the federal CWA and under the state Porter-Cologne Act.

As discussed above, the California Supreme Court, in *City of Burbank*, has expressly held that a regional board has the authority to issue a permit that exceeds the requirements of the CWA and its accompanying federal regulations. The State Water Resources Control Board, which supervises all regional boards in the state, including the Santa Ana RWQCB, has acknowledged that since NPDES permits are adopted as waste discharge requirements, they can more broadly protect “waters of the State” rather than be limited to “waters of the United States,” which do not include groundwater. *In re Building Industry Assn. of San Diego County and Western States Petroleum Assn.*, State Board Order WQ 2001-15.

V. 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

Section 5: Narrative Statement In Support of Joint Test Claim of Riverside County Local Agencies Concerning Santa Ana RWQCB Order No. R8-2010-0033 (NPDES No. CAS 618033), Santa Ana Water Permit – County of Riverside, 10-TC-07

“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. Orders issued by any regional board pursuant to the Porter-Cologne Act come within the definition of “executive order.” *County of Los Angeles v. Comm’n on State Mandates* (2007) 150 Cal.App.4th 898, 920.

Govt. Code § 17556 identifies seven exceptions to 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. . . .
- (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.

Section 5: Narrative Statement In Support of Joint Test Claim of Riverside County Local Agencies Concerning Santa Ana RWQCB Order No. R8-2010-0033 (NPDES No. CAS 618033), Santa Ana Water Permit – County of Riverside, 10-TC-07

(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.

In addition, the program or increased level of service must impose “unique requirements on local government” that “carry out a state policy”. (*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.)

None of these exceptions would bar reimbursement for the state mandates identified in this Test Claim. First, the exceptions identified in Govt. Code §§ 17556(a), (b), (e), (f) and (g) are not relevant to this Test Claim, and will not be discussed further. The exceptions identified in Govt. Code § 17556(c), relating to federal mandates, or (d), relating to fee assessments, are expected to be raised in potential opposition to the Test Claim and will be discussed further below. Also, as will be demonstrated below, the requirements of the mandates in this Test Claim represent “unique requirements on local government” and not requirements that fall equally upon local governments and private parties, so as to obviate the need for a subvention of state funds under article XIII B, section 6.

In particular, when a new program or level of service is in part federally required, California courts have held that where the state-mandated activities exceed federal requirements, those mandates constitute a reimbursable state mandate. *Long Beach Unified School Dist. v State of California* (1990) 225 Cal.App.3d 155, 172-73. Moreover, a “new program or higher level of service” imposed by the State upon a local agency as a result of a federal law or federal program is not necessarily a “federal mandate.” In order to be a federal mandate, the obligation must be imposed upon the local agency by federal law itself. The test for determining whether the “new program or higher level of service” is a state mandate is whether the state has a “true choice” in the matter of implementation, *i.e.*, whether the state freely chose to impose that program on local municipalities as opposed to performing the obligation itself. *Hayes v. Comm’n on State Mandates* (1992) 11 Cal.App.4th 1564, 1593-94.

The 2010 Permit imposes new requirements establishing new and higher levels of service on the permittees thereunder, including the Claimants, and that are unique to the permittees’ function as local government entities. As will be clear from a review of the mandated activities set forth below, all of the requirements relate to the Claimants’ role as local governmental agencies. For those reasons, the provisions of the 2010 Permit set forth in this Test Claim are state mandates for which Claimants, and the permittees under the 2010 Permit, are entitled to reimbursement pursuant to article XIII B, section 6 of the California Constitution.

VI. STATE MANDATED ACTIVITIES

A. Local Implementation Plan Requirement

Section IV and other sections of the 2010 Permit requires the permittees, including Claimants, to undertake two significant and new tasks not required by federal law or regulation – first, the creation of a “template” “Local Implementation Plan” (“LIP”), that will be used to develop detailed documentation for each permittee’s individual program to implement the Drainage Area Management Plan (“DAMP”) and the requirements of the 2010 Permit, and second, the development of individual, permittee-specific LIP documents (based on the “template” LIP) that describe in detail individual permittee compliance programs. The LIP will be a comprehensive document, essentially documenting each permittee’s efforts to comply with each provision of the 2010 Permit. It must, moreover, be regularly updated to reflect changes in the details of each permittee’s compliance programs. The LIP is a requirement of the Santa Ana RWQCB and is not required by the CWA or by the federal CWA regulations. The LIP requirement was not part of the 2002 Permit.

1. Applicable Requirements in the 2010 Permit⁴

SECTION IV

A. *Within 6 months of adoption of this Order, the Permittees shall develop and submit for approval of the Executive Officer a LIP template. The LIP template shall be amended as the provisions of the DAMP are amended to address the requirements of this Order. The LIP template shall facilitate a description of the Co-Permittee’s individual programs to implement the DAMP, including the organizational units responsible for implementation and identify positions responsible for Urban Runoff program implementation. The description shall specifically address:*

1. *Overall program management, including internal reporting requirements and procedures for communication and accountability;*

a. Interagency or interdepartmental agreements necessary to implement the Permittee’s Urban Runoff program

b. A summary of fiscal resources available to implement the Urban Runoff program;

c. The ordinances, agreements, plans, policies, procedures and tools (e.g. checklists, forms, educational materials, etc.) used to execute the DAMP, including legal authorities and enforcement tools.

d. Summarize procedures for maintaining databases required by the Permit;

e. Describe internal procedures to ensure and promote accountability;

2. *WQBELs to Implement the TMDLs (Section VI.D);*

⁴ Where footnotes in the 2010 Permit text are germane to the Test Claim, they are included in this font. Non-relevant footnotes have been deleted. Footnotes that are not part of the 2010 Permit text are included in this font. Additionally, the original footnote numbers in the 2010 Permit have not been used.

Section 5: Narrative Statement In Support of Joint Test Claim of Riverside County Local Agencies Concerning Santa Ana RWQCB Order No. R8-2010-0033 (NPDES No. CAS 618033), Santa Ana Water Permit – County of Riverside, 10-TC-07

3. *Receiving Water Limitations (Section VII.D).*
4. *Legal authority/enforcement (Section VIII)*
 - a. *Identify enforcement procedures, and*
 - b. *Identify actions and procedures for tracking return to compliance;*
5. *Illicit Connections/Illegal Discharges (IC/ID); Litter, Debris and Trash Control (Section IX).*

The procedures and the staff positions responsible for different components of their IC/ID and Illegal Discharge Detection and Elimination (IDDE) Programs.
6. *Sewage Spills, Infiltration into the MS4 Systems from Leaking Sanitary Sewer Lines, Septic System Failures, and Portable Toilet Discharges (Section X)*

A description of the interagency or interdepartmental sewer spill response coordination within each Permittee's jurisdiction.
7. *Co-Permittee inspection programs (Section XI),*
 - a. *Maintenance of Construction, Industrial, Commercial, and Post-Construction BMP databases;*
 - b. *Procedures for incorporating erosion and sediment control BMPs into the permitting of Construction Sites (Section XI.B)*
 - c. *Implementation of the Residential Program (Section XI.E.)*
 - d. *Specify the verification procedure(s) and any tools utilized to verify that coverage under the General Construction Permit;*
8. *New Development (Including Significant Redevelopment) (Section XII)*
 - a. *A list of discretionary maps and permits over which the Permittee has the authority to require WQMPs;*
 - b. *Permittee procedures to implement the Hydromodification Management Plan.*
 - c. *Permittee procedures and tools to implement the WQMP.(Sections XII.H, XII.I & XII.K)*
 - d. *Permittee procedures for Municipal Road Projects (Section XII.F).*
 - e. *A description of the credits programs or other in-lieu programs implemented (Section XII.G).*
9. *Public education and outreach (Section XIII)*
10. *Permittee Facilities and Activities (Section XIV)*
 - a. *A description of the Permittee's MS4 facilities;*
 - b. *At a minimum a list of facilities that include the following:*
 - i. *Parking facilities;*

- ii. Fire fighting training facilities;*
 - iii. Facilities and activities discharging directly to environmentally sensitive areas such as 303(d) listed waterbodies or those with a RARE beneficial use designation;*
 - iv. POTWs (including water and wastewater treatment plants) and sanitary sewage collection systems;*
 - v. Solid waste transfer facilities;*
 - vi. Land application sites;*
 - vii. Corporate yards including maintenance and storage yards for materials, waste, equipment and vehicles;*
 - viii. Household hazardous waste collection facilities;*
 - ix. Municipal airfields;*
 - x. Maintenance Facilities serving parks and recreation facilities;*
 - xi. Special event venues following special events (festivals, sporting events);*
 - xii. Other municipal areas and activities that the Permittee determines to be a potential source of Pollutants.*
11. *Compliance of Permittee Facilities and Activities with the General Construction Permit and De-Minimus Permit (Section XIV.G).*
12. *Training Program for Storm Water Managers, Planners, Inspectors and Municipal Contractors (Section XV);*
- a. Training log forms*
 - b. Identify departments and positions requiring training*
- B. *Within 12 months of approval of the LIP template, and amendments thereof, by the Executive Officer, each Permittee shall complete a LIP⁵, in conformance with the LIP template. The LIP shall be signed by the principal executive officer or ranking elected official or their duly authorized representative pursuant to Section XX.M of this Order.*
- C. *Each Permittee shall annually review and evaluate the effectiveness of its Urban Runoff programs to determine the need for revisions to its LIP as necessary in compliance with Sections VIII.H of this Order, and document revisions in the Annual Report.*

SECTION VI

⁵ As the Principal Permittee is not a general purpose government, some portions of the NPDES MS4 Program may not be applicable to it. The Principal Permittee should identify the basis for its exclusion from the applicable program elements in the appropriate LIP section.

D.1.a.vii [relevant portion] Amend the LIP to be consistent with the revised DAMP and WQMPs within 90 days after said revisions are approved by the Regional Board. Summarize any such LIP amendments in the Annual Report due to the Executive Officer by November 30 of each year.

D.1.c.i.(8) [relevant portion] The . . . LIPs shall be revised consistent with the CBRP no more than 180 days after the CBRP is approved by the Regional Board.

D.2.c. [relevant portion] Revise the . . . LIPs as necessary to implement the interim WQBEL compliance plans submitted pursuant to paragraph a and b of this section and summarize all such revisions in the Annual Report.

D.2.d.ii. [relevant portion] The . . . LIPs shall be revised consistent with the CNRP no more than 180 days after the CNRP is approved by the Regional Board.

D.2.i. [relevant portion] The . . . LIPs shall be revised as necessary to implement the plans submitted pursuant to paragraph a through h of this section and summarize all such revisions in the Annual Report.

SECTION VII

B. [relevant portion] The . . . LIPs, must be designed to achieve compliance with Receiving Water Limitations associated with discharges of Urban Runoff to the MEP.

D.2. [relevant portion] Within 30 days following approval by the Executive Officer of the report described above, the Permittees shall revise . . . applicable LIPs . . . to incorporate the approved modified BMPs that have been and will be implemented, the implementation schedule, and any additional monitoring required.

D.3 [relevant portion] Implement . . . applicable LIPs . . . in accordance with the approved schedule.

SECTION VIII

A. [relevant portion] The Permittees shall . . . incorporate the enforcement program into their LIP.

H. Annually thereafter, Permittees shall evaluate the effectiveness of implementation and enforcement response procedures with respect to the above items. The findings of these reviews, along with recommended corrective actions, where appropriate, with schedules shall be submitted as part of the Annual Report for the corresponding reporting period. The LIP shall be updated accordingly.

SECTION IX

C. [relevant portion] The Permittees shall describe their procedures and authorities for managing Illegal Dumping in their LIP.

SECTION XII

A.1 [relevant portion] Each Co-Permittee shall specify its verification procedure and any tools utilized for this purpose in its LIP.

H. Within 18 months of adoption of this Order, each Permittee shall develop and implement standard procedures and tools and include in its LIP the following:

1. The Permittees shall utilize a mechanism for review and approval of WQMPs, including a checklist that incorporates the minimum requirements of the model WQMP. The process for review and approval shall be described in the Permittees LIP.

2. The Co-Permittees shall maintain a database to track structural post-construction BMPs (consistent with XII.K.4 below).

3. Continue to ensure that the entity(ies) responsible for BMP maintenance and the mechanism for BMP funding is identified prior to WQMP approval.

4. The Permittees shall train those involved with WQMP reviews in accordance with Section XV, Training Requirements.

SECTION XIV

D. [relevant portion] The inspection and cleaning frequency for all portions of the specified MS4 shall be included in each Permittee's LIP and shall be evaluated annually to determine the need for adjusting the inspection and cleaning frequency.

SECTION XV

A. [relevant portion] Within 24 months of adoption of this Order . . . each Permittee's LIP shall be updated in include a program to provide formal and where necessary, informal training to Permittee staff that implement the provisions of this Order.

2. Requirements of Federal Law

No federal statute, regulation, or policy requires the preparation of the LIP. The LIP was included in the 2010 Permit as an initiative of Santa Ana RWQCB staff. The Fact Sheet prepared by RWQCB staff to explain the basis for the 2010 Permit requirements does not cite to the CWA or its regulations as specific authority for the LIP.

The CWA regulations, in 40 CFR § 122.26(d)(2)(iv), require the setting forth of a management program to address discharges from the MS4 system. This requirement was satisfied with the completion of the DAMP under the 2002 Permit. The regulations do not, however, 1)

require the preparation of or implementation of a LIP document or 2) require program documentation in the level of detail as required by the provisions in the 2010 Permit. Hence, Section IV of the 2010 Permit is not a federal mandate.

Moreover, a “new program or higher level of service” imposed by the State upon a municipality as a result of a federal law or federal program is not necessarily a “federal mandate.” In order to be a federal mandate, the obligation must be imposed upon the municipality by federal law itself. The test for determining whether the “new program or higher level of service” is a state mandate, is whether the state has a “true choice” in the manner of implementation, *i.e.*, whether the state freely chose to impose that program on local municipalities as opposed to performing the obligation itself. *Hayes, supra*, 11 Cal.App.4th at 1593-94.

3. Requirements of 2002 Permit

The 2002 Permit contains no requirements relating to the LIP; neither for the development of the LIP template, nor for the development of individual (permittee-specific) LIPs, nor the updating of the LIP over the course of the permit. Hence, the LIP requirements of the 2010 Permit establish a new program and/or higher level of service.

4. Mandated Activities

Develop a template LIP: The 2010 Permit require the permittees, including the Claimants, first to develop a template LIP. The development of that template LIP is being done by the District on behalf of itself and the permittees, and the funding for that work is being shared by the permittees pursuant to their joint Implementation Agreement. To date, preparation of the template has involved the work of a consultant in preparing draft templates, as well as numerous meetings among the District and the Permittees.

Develop individual LIPs: Once the template LIP has been approved by the Santa Ana RWQCB executive officer, the permittees, including Claimants, will be required to develop individual LIPs which set forth in detail the specific elements of their individual MS4 permit compliance programs, according to the detailed requirements of Section IV of the 2010 Permit set forth above. The preparation of the LIP will require permittees, including Claimants, to undertake tasks such as setting forth and identifying personnel, ordinances, plans and policies, the procedures for carrying out inspections and for incorporating programs required by the permit into the regulation of existing and new development, the identifying of public facilities in addition to the MS4 system, and the describing of procedures to promote accountability.

Update LIPs: Section IV.C of the 2010 Permit, as well as other sections of the Permit referenced above, require that each permittee’s LIP be considered for revision each year and updated as required to reflect changes to compliance programs being implemented by the permittees, including Claimants. Such requirements thus continue beyond development of the initial LIP and represent a continuing mandate.

5. Actual Increased Costs of Mandate

To comply with the LIP requirements set forth in the 2010 Permit, the permittees, including Claimants, were required to spend monies both to develop the required LIP template and to develop individual LIPs in compliance with the 2010 Permit. Moreover, as required by the 2010 Permit, each permittee’s LIP is required to be updated annually, resulting in additional costs for the permittees.

The development of the LIP template and other requirements were conducted by the District using funding provided by the permittees, including Claimants, through a joint Implementation Agreement among the permittees. In addition, each permittee, including Claimants, must fund the development and implementation of its own LIP, as well as any required updates.

During Fiscal Year (“FY”) 2010-11, Claimants incurred increased costs of \$11,355.44 with respect to these requirements and during FY 2011-12, Claimants incurred increased costs of \$25,279.87. *See* Claimant Declarations, paragraph 5(a), included in Section 6. In addition, as also set forth in certain Claimant Declarations, Paragraph 5(a), those Claimants first incurred additional increased costs in subsequent FYs.

B. Potential Promulgation and Implementation of Ordinances to Address Bacteria Sources

Section VIII.C of the 2010 Permit requires the permittees, including Claimants, to promulgate and implement ordinances that would control known pathogen or bacteria indicator sources such as animal wastes, if necessary. This requirement is not mandated by federal law and was not part of the 2002 Permit.

1. Applicable Requirements in 2010 Permit

SECTION VIII

C. Within three (3) years of this Order, the Co-Permittees shall promulgate and implement ordinances that would control known pathogen or Bacterial Indicator sources such as animal wastes, if necessary.

2. Requirements of Federal Law

The federal CWA regulations require, in 40 CFR § 122.26(d)(2), that MS4 permittees demonstrate that they have adequate legal authority “established by statute, ordinances or series of contracts” to the contribution of pollutions to the MS4 associated with industrial activity, prohibit illicit discharges to the MS4, control spills, dumping or disposal of materials other than storm water to the MS4, control the contribution of pollutants from one portion of the MS4 to another portion of the MS4, require compliance with conditions in ordinances, permits, contracts or orders, and carry out all inspection, surveillance and monitoring procedures required to determine compliance and non-compliance with permit conditions. 40 CFR § 122.26(d)(2)(i).

The CWA regulations require that the MS4 permittees demonstrate that they have sufficient “legal authority” to address issues relating to the discharges from their MS4. The requirement of the 2010 Permit to adopt a specific ordinance or ordinances to address a specific pollutant goes beyond the requirements of the CWA regulations and represents the “free choice” by the Santa Ana RWQCB to impose this requirement. As such, it is a state, and not a federal mandate. *Hayes, supra*, 11 Cal.App.4th at 1593-94.

3. Requirements of 2002 Permit

The 2002 Permit contained no requirements to adopt ordinances such as the requirement contained in Section VIII.C of the 2010 Permit.

4. Mandated Activities

Section VIII.C of the 2010 permit would require the permittees, including Claimants, to research existing ordinance authority and, if insufficient to address the source of known pathogens or Bacterial Indicator sources, to develop ordinance language that meets legal requirements, to submit such language to the permittee governing bodies for consideration and approval of the ordinance/ordinances, development of a program to implement the ordinances and enforcement of the ordinances.

5. Actual Increased Costs of Mandate

Claimant City of Moreno Valley incurred increased costs of an estimated \$7,000 in FY 2010-11 and Claimant City of Hemet incurred increased costs of an estimated \$4,460 in FY 2011-12 in responding to these 2010 Permit requirements. *See* Section 6 Declarations of Cities of Moreno Valley and Hemet, Paragraph 5(b).

C. Incorporation of IDDE Program to Enhance Illicit Connections/Illegal Discharges Requirements

The 2010 Permit (as well as the associated monitoring and reporting program contained in Appendix 3 of the Permit) requires the permittees, including Claimants, to review and enhance their illegal connections/illegal discharges (“IC/ID”) program to include a “pro-active” Illicit Discharge Detection and Elimination (“IDDE”) program using an EPA manual or equivalent program. This program then must be used to investigate and track potential illegal discharges and the permittees are required to maintain a database summarizing IC/ID incident responses, which must be updated annually and submitted with the permittees’ annual reports. All of these requirements are new from the 2002 Permit and none are required by the CWA or federal CWA regulations.

1. Applicable Requirements in 2010 Permit

SECTION IX

D. Within 18 months of adoption of this Order, the Permittees shall review and revise their IC/ID program to include a pro-active IDDE using the Guidance Manual for Illicit Discharge,

Detection, and Elimination by the Center for Watershed Protection or any other equivalent program consistent with Section IX.E below. The result of this review shall be reported in the Annual Report and include a description of the Permittees' revised pro-active program, procedures and schedules. The LIP shall be updated accordingly. [footnote deleted]

E. The Permittees' revised IC/ID program shall specify an IDDE program for each Co-Permittee to individually, or in combination:

a. Develop an inventory and map of Permittee MS4 facilities and Outfalls to Receiving Waters.

b. Develop a schedule to be submitted within 18 months to conduct and implement systematic investigations of MS4 open channels and Major Outfalls.

c. Use field indicators to identify potential illegal Discharges, if applicable;

d. Track Illegal Discharges to their sources where feasible; and

e. Educate the public about Illegal Discharges and Pollution Prevention where problems are found. [footnote deleted]

H. The Permittees shall maintain a database summarizing IC/ID incident response (including IC/IDs detected as part of field monitoring activities). This information shall be updated on an ongoing basis and submitted with the Annual Report.

APPENDIX 3, Monitoring and Reporting Program, Section III.E.3

3. Illicit Connection/Illegal Discharge (IC/ID) Monitoring: The Permittees shall review and update their Dry Weather and Wet Weather reconnaissance strategies to identify and eliminate IC/IDs using the Guidance Manual for Illicit Discharge, Detection, and Elimination developed by the Center for Watershed Protection or any other equivalent program. Where possible, the use of GIS to identify geographic areas with a high density of industries associated with gross Pollution (e.g. electroplating industries, auto dismantlers) and/or locations subject to maximum sediment loss (e.g. New Development) may be used to determine areas for intensive monitoring efforts. The Dry Weather monitoring for nitrogen and total dissolved solids shall be used to establish a baseline dry weather flow concentration for TDS and TIN at each Core monitoring location. [footnote deleted]

2. Requirements of Federal Law

The CWA prohibits the discharge of “non-stormwater” into the MS4 system. The federal CWA regulations require that MS4 operators develop and implement a program to detect and remove illicit discharges and improper disposal into storm sewers. 40 CFR § 122.26(d)(iv)(B). However, nowhere in the CWA or the regulations is there any requirement to develop and implement an IDDE program, as required in the above-cited provisions of the 2010 Permit, nor is there any requirement to annually evaluate the increased IC/ID programs. The Fact Sheet to the 2010 Permit indicates that the requirement to add a “proactive” IDDE program was the choice of

the RWQCB to enhance the IC/ID program after determining that the previous program had been “primarily complaint driven or an incidental component of municipal inspections or MS4 inspections for a number of Permittees.” Fact Sheet at 36.

As noted above, an NPDES permit can contain both federal and non-federal requirements. *City of Burbank, supra*, 35 Cal.4th at 618, 628. Where state-mandated activities exceed federal requirements, those mandates constitute a reimbursable state mandate. *Long Beach Unified School District, supra*, 225 Cal.App.3d at 172-73.

Moreover, as noted above, a “new program or higher level of service” imposed by the State upon a municipality as a result of a federal law or federal program is not necessarily a “federal mandate.” The test for determining whether the “new program or higher level of service” is a state mandate is whether the state has freely chosen to impose that program on local municipalities as opposed to performing the obligation itself. *Hayes, supra*, 11 Cal.App.4th at 1593-94.

Here, the Santa Ana RWQCB freely chose to impose the additional IDDE requirement on the existing IC/ID program maintained by the permittees. That additional requirement thus represents a new program or higher level of service mandated by the state.

3. Requirements of 2002 Permit

While the 2002 Permit contained (in Section VI) an IC/ID program requirement, the Santa Ana RWQCB did not require the IDDE requirements set forth in this Test Claim.

4. Mandated Activities

The requirement to revise existing permittee IC/ID programs to incorporate the IDDE program will require the permittees, including Claimants, to:

Develop a map of MS4 outfalls;

Schedule and conduct investigations of MS4 open channels and major outfalls;

Conduct IC/ID Monitoring and use field indicators to identify potential illegal discharges;

Track illegal discharges to their sources where feasible; and

Annually review and evaluate these increased IC/ID programs and to report upon such evaluation as part of their annual reports.

The Commission previously has determined that program assessment required beyond the federal CWA regulations constitutes an unfunded state mandate. *See San Diego County Test Claim* at 85-91.

5. Actual Increased Costs of Mandate

To comply with the IDDE requirements set forth in the 2010 Permit, the permittees, including Claimants, were required to spend funds both to develop the required IDDE and IC/ID monitoring programs and to revise their existing individual IC/ID programs to implement the identified requirements of the 2010 Permit. Moreover, the permittees, including Claimants, were required to spend additional funds compiling information and reporting on these activities as required by the 2010 Permit.

The development of the IDDE program was undertaken both as a joint effort with the District, using funding provided by the permittees, including the Claimants, through the Implementation Agreement, and by the permittees, including the Claimants, individually.

As set forth in the Section 6 Claimant Declarations, Paragraph 5(c), Claimants incurred increased costs of \$830,939.61 in FY 2010-11 and increased costs of \$1,250,154 in FY 2011-12 with respect to these requirements. In addition, as set forth in certain Claimant Declarations, Paragraph 5(c), those Claimants first incurred additional specific costs in subsequent FYs.

D. Creation of Septic System Database

In Section X.D of the 2010 Permit, the County of Riverside Department of Environmental Health is specifically required to maintain updates to the inventory of all new septic systems approved since 2008 by permittees with septic systems in their jurisdiction.

1. Applicable Requirements in 2010 Permit

SECTION X

D. Permittees with septic systems in their jurisdiction shall maintain the inventory of septic systems within its jurisdiction completed in 2008. Updates to the inventory will be maintained by County Environmental Health via a database of new septic systems approved since 2008.

2. Requirements of Federal Law

While the federal CWA regulations require MS4 permits to contain a “description of procedures to prevent, contain, and respond to spills that may discharge into the municipal separate storm sewer,” 40 CFR § 122.26(d)(2)(iv)(B)(4), nothing in the federal regulations address septic systems or the requirement to maintain a database of new septic systems. Thus, the database requirements are state mandates.

3. Requirements of 2002 Permit

Nothing in the 2002 Permit required a database of septic systems.

4. Mandated Activities

The County is being required to maintain and update a database of new septic systems installed since 2008 within permittee jurisdictions for the life of the 2010 Permit.

5. Actual Increased Costs of Mandate

With respect to these requirements, the County incurred increased costs of an estimated \$5,000 in FY 2010-11 and an estimated \$5,000 in FY 2011-12. *See* Section 6 Claimant Declaration for County, Paragraph 5(d).

E. Enhanced Permittee Inspection Requirements

Section XI of the 2010 Permit contains a number of enhanced permittee inspection requirements, requirements that may not be recoverable from inspection fees in that they represent administrative obligations ancillary to the actual inspection responsibilities or represent costs related to residential areas which cannot be recovered through facility inspection fees. These enhanced responsibilities relate to requirements to add additional facilities to the inspection and enforcement responsibilities of the permittees, including Claimants.

1. Applicable Requirements in 2010 Permit

SECTION XI

D.1. [applicable portions] Within 18 months, the Co-Permittees shall also identify any facilities that transport, store or transfer pre-production plastic pellets and managed turf facilities (e.g. private golf courses, athletic fields, cemeteries, and private parks) within their jurisdiction and determine if these facilities warrant additional inspection to protect water quality.

D.6. Within 18 months of adoption of this Order, the Co-Permittees shall notify all mobile businesses based within their jurisdiction concerning the minimum Source Control and Pollution Prevention BMPs that they must develop and implement. For purposes of this Order, mobile businesses include: mobile auto washing/detailing; equipment washing/cleaning; carpet, drape, furniture cleaning; and mobile high pressure or steam cleaning activities that are based out of a Co-Permittee's jurisdiction. The mobile businesses shall be required to implement appropriate BMPs within 3 months of being notified by the Co-Permittees. The Co-Permittees shall also notify mobile businesses discovered operating within their jurisdiction.

D.7. Within 24 months of adoption of this Order, the Co-Permittees shall develop an enforcement strategy to address mobile businesses.

E.6. Each Co-Permittee shall include an evaluation of its residential program in the Annual Report starting with the second Annual Report after adoption of this Order.

2. Requirements of Federal Law

The CWA does not require the permittees, including Claimants, to inspect pre-production plastic facilities, managed turf facilities or mobile businesses. The CWA regulations set forth the

list of facilities required to be inspected pursuant to the Act, which are municipal landfills, hazardous waste treatment, disposal and recovery facilities, industrial facilities that are subject to section 313 of Title III of the Superfund Amendment and Reauthorization Act of 1986, and industrial facilities that a municipality has determined to be contributing a substantial pollutant loading to the municipal storm sewer system. 40 C.F.R. § 122.26(d)(2)(iv)(C).

Similarly, neither the CWA nor the CWA regulations require an evaluation of the residential program. The only requirement in the CWA regulations applicable to residential areas is the requirement to include

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 implement such controls.

40 CFR § 122.26(d)(2)(iv)(A). (This provision was cited by the Santa Ana RWQCB in the Fact Sheet as support for the requirement to address residential areas. *See* Fact Sheet at 38.) These requirements do not mandate the requirements for residential area enforcement set forth in the 2010 Permit. And, as noted above, where the state freely chooses to impose costs associated with a new program or higher level of service upon a local agency, even as a means of implementing a federal program, those costs represent a reimbursable state mandate. *Hayes, supra*, 11 Cal. App.4th at 1593-94.

3. Requirements of 2002 Permit

The 2002 Permit adopted by the Santa Ana RWQCB did not contain any of the requirements relating to pre-production plastic facilities or managed turf facilities, or related to specific notifications and enforcement strategies for mobile businesses or evaluation of residential area enforcement.

4. Mandated Activities

The requirements in Section XI of the 2010 Permit set forth above will require the permittees, including Claimants, to

-- Identify within their jurisdictions (a) facilities that transport, store or transfer pre-production plastic pellets, and (b) managed turf facilities, which can include golf courses, athletic fields, cemeteries and private parks, and then determine whether those facilities require additional inspections to protect water quality. This effort will require investigations and possibly site visits, the cost of which cannot be recovered through fees that might be applicable once the facilities have been incorporated into an inspection regime.

-- Identify mobile businesses within their jurisdiction, notify those businesses and develop the Source Control and Pollution Prevention BMPs that these businesses must implement;

-- Develop an enforcement strategy to address mobile businesses; and

-- Conduct an evaluation of the permittees' residential program in their Annual Reports.

Again, it may be noted that the Commission already has determined that program assessment required beyond the CWA regulations constitutes an unfunded state mandate. *See* San Diego County Test Claim at 85-91. In the case of the 2010 Permit, there is no requirement to assess residential programs in the CWA regulations nor was there any such requirement in the 2002 Permit.

5. Actual Increased Costs of Mandate

To comply with the requirements set forth in Section XI of the 2010 Permit, the permittees, including Claimants, were required to spend monies to comply with the mandated activities described above.

In response to these requirements, the Claimants incurred increased costs of \$105,768.35 in FY 2010-11 and \$107,781.62 in FY 2011-12. *See* Section 6 Declarations, Paragraph 5(e).

F. Enhanced New Development Requirements

Section XII of the 2010 Permit contains a number of requirements that expand the responsibilities required of the permittees, including Claimants, with respect to the regulation of stormwater discharges from new developments and significant re-developments. These requirements are far-ranging, and include requirements to include new and revised programs for LID BMPs, and BMPs to reduce erosion and mitigate hydromodification, to develop and implement a comprehensive Watershed Action Plan to address urbanization impacts in the area covered by the 2010 Permit, to review and if required, amend each permittee's general plan and related documents, such as development standards and zoning codes, to eliminate barriers to implementation of LID principles and Hydrologic Conditions of Concern ("HCOC"), to revise and submit a revised WQMP to address the "new elements required" in the 2010 Permit, to develop a procedure for streamlining regulatory agency approval of regional Treatment Control BMPs, to incorporate and require development and significant redevelopment projects proposed by the permittees to incorporate LID principles, to revise permittee ordinances and design codes to promote LID techniques to review permittee projects for HCOCs and to mitigate such HCOCs, to develop standard design and post-development BMP guidance for permittee streets, roads and highways projects, to develop criteria for determining the feasibility implementing LID BMPs, and for each permittee to maintain a database to track the operation and maintenance of structural post construction BMPs installed after adoption of the 2010 Permit.

1. Applicable Requirements in 2010 Permit

SECTION XII

A.5. *Each Permittee shall ensure that appropriate BMPs to reduce erosion and mitigate Hydromodification are included in the design for replacement of existing culverts or construction of new culverts and/or bridge crossings to the MEP⁶.*

B. WATERSHED ACTION PLAN

1. *An integrated watershed management approach may facilitate integration of planning and project approval processes with water quality and quantity control measures. Management of the impacts of Permit Area urbanization on water quality and stream stability is more effectively done on a per-site, neighborhood and municipal basis based on an overall watershed plan. Pending completion of the Watershed Action Plan consistent with this section, management of the impacts of urbanization shall be accomplished using existing programs. The Permittees shall develop a Watershed Action Plan to address the entire Permit Area. The Permittees may choose to develop sub-watershed action plans based on the overall Watershed Action Plan in the future based on new 303(d) impairments, TMDL requirements, or other factors.*
2. *The Permittees shall develop and submit to the Executive Officer for approval a Watershed Action Plan that describes and implements the Permittees' approach to coordinated watershed management. The objective of the Watershed Action Plan is to address watershed scale water quality impacts of urbanization in the Permit Area associated with Urban TMDL WLAs, stream system vulnerability to Hydromodification from Urban Runoff, cumulative impacts of development on vulnerable streams, preservation of Beneficial Uses of streams in the Permit Area, and protection of water resources, including groundwater recharge areas.*
3. *Within three years of Permit adoption, the Co-Permittees shall develop the Watershed Action Plan and implementation tools to address impacts of urbanization in a holistic manner. At a minimum, the Watershed Action Plan shall include the following:*
 - a. *Describe proposed Regional BMP approaches that will be used to address Urban TMDL WLAs*
 - b. *Develop recommendations for specific retrofit studies of MS4, parks and recreational areas that incorporate opportunities for addressing TMDL Implementation Plans, Hydromodification from Urban Runoff and LID implementation.*
 - c. *Description of regional efforts that benefit water quality (e.g. Western Riverside County Multiple Species Conservation Plan, TMDL Task Forces, Water Conservation Task Forces, Integrated Regional Watershed Management Plans) and their role in the Watershed Action Plan. The Permittees shall describe how these efforts link to their Urban Runoff Programs and identify any further coordination that should be promoted to address Urban WLA or Hydromodification from Urban Runoff to the MEP.*

⁶ This type of project may require a CWA Section 404 Permit.

Section 5: Narrative Statement In Support of Joint Test Claim of Riverside County Local Agencies Concerning Santa Ana RWQCB Order No. R8-2010-0033 (NPDES No. CAS 618033), Santa Ana Water Permit – County of Riverside, 10-TC-07

4. *Within two years of adoption of this Order, the Permittees shall delineate existing unarmored or soft-armored stream channels in the Permit Area that are vulnerable to Hydromodification from New Development and Significant Redevelopment projects.*
5. *Within two years of completion of the delineation in Section XII.B.4 above, develop a Hydromodification management plan (HMP) describing how the delineation will be used on a per project, sub-watershed, and watershed basis to manage Hydromodification caused by urban runoff. The HMP shall prioritize actions based on drainage feature/susceptibility/risk assessments and opportunities for restoration.*
 - a. *The HMP shall identify potential causes of identified stream degradation including a consideration of sediment yield and balance on a watershed or sub-watershed basis.*
 - b. *Develop and implement a HMP to evaluate Hydromodification impacts for the drainage channels deemed most susceptible to degradation. The HMP will identify sites to be monitored, include an assessment methodology, and required follow-up actions based on monitoring results. Where applicable, monitoring sites may be used to evaluate the effectiveness of BMPs in preventing or reducing impacts from Hydromodification.*
6. *Identify Impaired Waters [CWA § 303(d) listed] with identified Urban Runoff Pollutant sources causing impairment, existing monitoring programs addressing those Pollutants, any BMPs that the Permittees are currently implementing, and any BMPs the Permittees are proposing to implement consistent with the other requirements of this Order. Upon completion of XII.B.4, develop a schedule to implement an integrated, world-wide-web available, regional geodatabase of the impaired waters [CWA § 303(d) listed], MS4 facilities, critical habitat preserves defined in the Multiple Species Habitat Conservation Plan and stream channels in the Permit Area that are vulnerable to Hydromodification from Urban Runoff.*
7. *Develop a schedule to maintain the geodatabase required in Section XII.B.4 and other available and relevant regulatory and technical documents associated with the Watershed Action Plan.*
8. *Within three years of adoption of this Order, the Watershed Action Plan shall be submitted to the Executive Officer for approval and incorporation into the DAMP. Within six months of approval, each Permittee shall implement applicable provisions of the approved revised DAMP and incorporate applicable provisions of the revised DAMP into the LIPs for watershed wide coordination of the Watershed Action Plan.*
9. *The Permittees shall also incorporate Watershed Action Plan training, as appropriate, including training for upper-level managers and directors into the training programs described in Section XV. The Co-Permittees shall also provide outreach and education to the development community regarding the availability and function of appropriate web-enabled components of the Watershed Action Plan.*

10. *Invite participation and comments from resource conservation districts, water and utility agencies, state and federal agencies, non-governmental agencies and other interested parties in the development and use of the Watershed Geodatabase.*

C.1. Within 24 months of adoption of this Order, each Co-Permittee shall review its General Plan and related documents including, but not limited to its development standards, zoning codes, conditions of approval and development project guidance to eliminate any barriers to implementation of the LID principles and HCOC discussed in Section XII.E of this Order. The results of this review along with any proposed action plans and schedules shall be reported in the Annual report for the corresponding reporting year. Any changes to the project approval process or procedures shall be reflected in the LIP.

D.1. [relevant portions] Within 18 months of adoption of this Order, the Permittees shall submit a revised WQMP to incorporate new elements required in this Order.

E. LOW IMPACT DEVELOPMENT (LID) AND HYDROMODIFICATION MANAGEMENT TO MINIMIZE IMPACTS FROM NEW DEVELOPMENT/SIGNIFICANT REDEVELOPMENT PROJECTS:

1. *Within 18 months of adoption of this Order, the Permittees shall update the WQMP to address LID principles and HCOC consistent with the MEP standard. A copy of the updated WQMP shall be submitted to the Executive Officer for approval. Within six months of approval, each Permittee shall implement the updated WQMP. Onsite LID principles as close to Pollution sources as possible shall be given preference, however, project site, sub-regional or regional LID principles may also be applied.*
2. *The Permittees shall require those projects identified in Section XII.D.2. to infiltrate, harvest and use, evapotranspire and/or bio-treat⁷ the 85th percentile storm event (“Design Capture Volume”). The Design Capture Volume should be calculated as specified in Section XII.D.4.a, above. It is recognized that LID principles are not universally applicable and they are dependent on factors such as: soil conditions including soil compaction and permeability, groundwater levels, soil contaminants (Brownfield development), space restrictions (in-fill projects, redevelopment projects, high density development, transit-oriented developments), highest and best use of Urban Runoff (to support downstream uses), etc. Any portion of this volume that is not infiltrated, harvested and used, evapotranspired, and/or bio-treated shall be treated and discharged in accordance with the requirements set forth in Section XII.G, below.*
3. *The Permittees shall incorporate LID site design principles into the revised WQMP to reduce runoff to a level consistent with the MEP standard. The Co-Permittees shall require that New Development and Significant Redevelopment projects include Site Design BMPs during the development of the project-specific WQMP. The design goal*

⁷ A properly engineered and maintained bio-treatment system may be considered only if infiltration, harvesting and use and evapotranspiration cannot be feasibly implemented at a project site (feasibility criteria will be established in the WQMP [Section XII.G.1]. Specific design, operation and maintenance criteria for bio-treatment systems shall be part of the WQMP that will be produced by the Permittees.

shall be to maintain or replicate the pre-development hydrologic regime through the use of design techniques that create a functionally equivalent post-development hydrologic regime through site preservation techniques and the use of integrated and distributed infiltration, retention, detention, evapotranspiration, filtration and treatment systems. The revised WQMP should continue to consider Site Design BMPs described in Appendix O of the DAMP and LID principles described in the pending Southern California Stormwater Monitoring Coalition/CASQA LID Guidance Manual for Southern California.

4. *Within 18 months of adoption of this Order, each Permittee shall revise, where feasible its ordinances, codes, building and landscape design standards to promote green infrastructure/LID techniques including, but not limited to, the following:*
 - a. *Landscaping designs that promote longer water retention and evapotranspiration such as 1 foot depth of compost/top soil in commercial and residential areas on top of 1 foot of non-compacted subsoil, concave landscape grading to allow runoff from impervious surfaces, and water conservation by selection of water efficient native plants, weather-based irrigation controllers, etc.*
 - b. *Allow permeable surface designs in low traffic roads and parking lots. This may require land use/building code amendment.*
 - c. *Allow natural drainage systems for street construction and catchments (with no drainage pipes) and allow vegetated ditches and swales where feasible.*
 - d. *Require landscape in parking lots to provide treatment, retention or infiltration.*
 - e. *Reduce curb requirements where adequate drainage, conveyance, treatment and storage are available.*
 - f. *Amend land use/building codes to allow no curbs, curb cuts and/or stop blocks in parking areas and residential streets with low traffic.*
 - g. *Use of green roof, rain garden, and other green infrastructure in urban/suburban area.*
 - h. *Allow rainwater harvesting and use.*
 - i. *Narrow streets provide alternatives to minimum parking requirements, etc. to facilitate LID where acceptable to public safety departments.*
 - j. *Consider vegetated landscape for storm water treatment as an integral element of streets, parking lots, playground and buildings.*
 - k. *Consider and facilitate application of landform grading techniques⁸ and revegetation as an alternative to traditional approaches, particularly in areas susceptible to erosion and sediment loss such as hillside development projects,*

⁸<http://www.epa.gov/Region3/mtnstop/pdf/appendices/d/aquatic-ecosystem-enhanc-symp/symposiumfinal.pdf>

Section 5: Narrative Statement In Support of Joint Test Claim of Riverside County Local Agencies Concerning Santa Ana RWQCB Order No. R8-2010-0033 (NPDES No. CAS 618033), Santa Ana Water Permit – County of Riverside, 10-TC-07

1. *Other site design BMPs identified in the WQMP not included above.*
...
6. *Each Permittee shall implement effective education programs to educate property owners to use Pollution Prevention BMPs and to maintain on-site hydrologically functional landscape controls.*
7. *To reduce Pollutants in Urban Runoff, address Hydromodification, and manage Urban Runoff as a resource to the MEP, the revised WQMP shall specify preferential use of Site Design BMPs that incorporate LID techniques, where feasible, in the following manner (from highest to the lowest priority):*
 - a. *Preventative measures (these are mostly non-structural measures, e.g., preservation of natural features to a level consistent with the MEP standard; minimization of Urban Runoff through clustering, reducing impervious areas, etc.) and*
 - b. *Mitigation measures (these are structural measures, such as, infiltration, harvesting and use, bio-treatment, etc.).*
8. *The mitigation or structural Site Design BMPs shall also be prioritized (from highest to lowest priority):*
 - a. *Infiltration BMPs (examples include permeable pavement with infiltration beds, dry wells, infiltration trenches, surface and sub-surface infiltration basins. The Permittees should work with local groundwater management agencies to ensure that infiltration Treatment Control BMPs are designed appropriately;*
 - b. *BMPs that harvest and use (e.g., cisterns and rain barrels); and*
 - c. *Vegetated BMPs that promote infiltration and evapotranspiration including bioretention, biofiltration and bio-treatment. Upon the Permittees' determination of LID infeasibility per Section XII.G, design capture volume specified in Section XII.D.4, that is not addressed by onsite or offsite LID Site Design BMPs as listed above shall be treated using Treatment Control BMPs as described in Section XII.G.*
9. *Hydrologic Condition of Concern (HCOC):*
 - a. *The Permittees shall continue to ensure, consistent with the MEP standard, through their review and approval of project-specific WQMPs that New Development and Significant Redevelopment projects do not pose a HCOC due to increased runoff volumes and velocities.*
 - b. *A New Development and Significant Redevelopment project does not cause a HCOC if any one of the following conditions is met:*
 - i) *The project disturbs less than one acre and is not part of a common plan of development.*

- ii) The volume and the time of concentration⁹ of storm water runoff for the post-development condition is not significantly different from pre-development condition for a 2--year return frequency storms (a difference of 5% or less is considered insignificant). This may be achieved through Site Design and Treatment Control BMPs.*
- iii) All downstream conveyance channels to an adequate sump (e.g. Prado Dam, Lake Elsinore, Canyon Lake, Santa Ana River or other lake, reservoir or natural resistant feature) that will receive runoff from the project are engineered and regularly maintained to ensure design flow capacity, and no sensitive stream habitat areas will be affected; or not identified in the Permittees Hydromodification sensitivity maps required in Section XII.B.3, and no sensitive stream habitat areas will be affected.*
- iv) The Permittees may request a variance from these criteria based on studies conducted by the Southern California SMC, SCCWRP, CASQA, or other regional studies. Requests for consideration of any variances should be submitted to the Executive Officer.*
- c. If a HCOC exists, the WQMP shall include an evaluation of whether the project will adversely impact downstream erosion, sedimentation or stream habitat. This evaluation should include consideration of pre- and post-development hydrograph volumes, time of concentration and peak discharge velocities for a 2-year storm event, construction of sediment budgets, and a sediment transport analysis. If the evaluation determines adverse impacts are likely to occur, the project proponent shall implement additional Site Design BMPs, on-site BMPs, Treatment Control BMPs and/or in-stream BMPs¹⁰ to mitigate the impacts. The project proponent should first consider Site Design BMPs and on-site BMPs prior to proposing in-stream BMPs; in-stream BMPs must not adversely impact Beneficial Uses or result in sustained degradation of Receiving Water quality and shall require all necessary regulatory approvals¹¹:*
- d. HCOC are considered mitigated if they meet one of the following conditions:*

⁹ Time of concentration is defined as the time after the beginning of rainfall when all portions of the drainage basin are contributing simultaneously to flow at the outlet.

¹⁰ In-stream measures involve modifying the receiving stream channel slope and geometry so that the stream can convey the new flow regime without increasing the potential for erosion and aggradation. In-stream measures are intended to improve long-term channel stability and prevent erosion by reducing the erosive forces imposed on the channel boundary.

¹¹ In-stream control projects require a Stream Alteration Agreement from the California Department of Fish & Game, a CWA section 404 permit from the U.S. Army Corps of Engineers, and a section 401 certification from the Water Board. Early discussions with these agencies on the acceptability of an in-stream modification are necessary to avoid project delays or redesign.

- i. *Require additional onsite or offsite mitigation to address potential erosion or habitat impact using LID BMPs.*
 - ii. *The project is developed consistent with an approved Watershed Action Plan that addresses HCOC for the downstream Receiving Waters.*
 - iii. *Mimicking the pre-development hydrograph with the post-development hydrograph, for a 2-year return frequency storm. Generally, the hydrologic conditions of concern are not significant, if the post-development hydrograph is no more than 10% greater than pre-development hydrograph. In cases where excess volume cannot be infiltrated or captured and reused, discharge from the site must be limited to a flow rate no greater than 110% of the pre-development 2-year peak flow.*
- e. *If site conditions do not permit items i, through iv, above, the alternatives and in-lieu programs discussed under Section XII.G, below, may be considered.*

F. ROAD PROJECTS

1. *Within 24 months of adoption of this Order, the Co-Permittees shall develop standard design and post-development BMP guidance to be incorporated into projects for streets, roads, highways, and freeway improvements, under the jurisdiction of the Co-Permittees to reduce the discharge of Pollutants from the projects to the MEP. The draft guidance shall be submitted to the Executive Officer for review and approval and shall meet the performance standards for site design/LID BMPs, Source Control and Treatment Control BMPs as well as the HCOC criteria. The guidance and BMPs shall address streets, roads or highways under the jurisdiction of the Co-Permittees used for transportation of automobiles, trucks, motorcycles, and other vehicles, and excludes routine road maintenance activities where the surface footprint is not increased. The guidance shall incorporate principles contained in the USEPA guidance. “Managing Wet Weather with Green Infrastructure: Green Streets” to the MEP and at a minimum shall include the following:*

- a. *Guidance specific to new road projects;*
- b. *Guidance specific to projects for existing roads;*
- c. *Size or impervious area criteria that trigger project coverage;*
- d. *Preference for green infrastructure approaches wherever feasible;*
- e. *Criteria for design and BMP feasibility analysis on a project-specific basis.*

2. *Within six months of approval by the Executive Officer, the Permittees shall implement the standard design and post-development BMP guidance for all road projects. Pending approval of the standard design and post-development BMP guidance, site specific WQMPs for streets road and highway projects shall be required pursuant to Section XII.D.2.*

G. ALTERNATIVES AND IN-LIEU PROGRAMS

1. [relevant portions] Within 18 months of adoption of this Order, the Permittees shall develop technically-based feasibility criteria for project evaluation to determine the feasibility of implementing LID BMPs which may include factors such as a groundwater protection assessment to determine if infiltration BMPs are appropriate for the site.¹²

K. OPERATION AND MAINTENANCE OF POST-CONSTRUCTION BMPS

4. Each Co-Permittee shall maintain a database to track the operation and maintenance of the structural post-construction BMPs installed after adoption of this Order. The database shall include: type of BMP; watershed where it is located; date of certification; party responsible for maintenance and any problems identified during inspection including any vector or nuisance problems.

5. [relevant portions] Within 18 months of adoption of this order and annually thereafter, all Permittee-owned structural post construction BMPs installed after the date of this Order shall be inspected prior to the Rainy Season. The Co-permittees shall also develop an inspection frequency for New Development and Significant Redevelopment projects, based on the project type and the type of structural post construction BMPs deployed.

2. Requirements of Federal Law

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). This is the regulation cited by the Santa Ana RWQCB in the Fact Sheet (Fact Sheet at 38.)

The requirements in Section XII of the 2010 Permit set forth above either are not required by the CWA or the CWA regulations or represent the free choice of the Santa Ana RWQCB to incorporate those provisions into the 2010 Permit and, as such, represent a state mandate. First, the requirements relating to the Watershed Action Plan (“WAP”) and the incorporation of watershed protection principles into planning processes are not a federal mandate. Instead they stem from a determination by RWQCB staff, upon evaluating the management programs established under the 2002 Permit, that there was “a need for establishing a clear nexus between the watershed protection principles (including LID) and the planning and approval processes of

¹² Such feasibility determinations may be based on regional analyses conducted by the Permittees (see finding G-14) or on site specific conditions. Site specific determinations shall be certified by a Professional Civil Engineer registered in the State of California, and will be documented in the project WQMP, which shall be approved by the Permittee prior to submittal to the Executive Officer. Within 30 days of submittal to the Executive Officer, the Permittee will be notified if the Executive Officer intends to take any action.

the Permittees.” Fact Sheet, p. 38. Thus, the decision to require development and implementation of the WAP program was the free choice of the Santa Ana RWQCB, not a federal requirement. *Hayes, supra*, 11 Cal. App.4th at 1593-94.

Second, the incorporation of similar LID and hydromodification requirements on new development projects has previously been determined by the Commission, in the San Diego County Test Claim, to represent a state mandate. San Diego County Test Claim at 41-54. However, the Commission found that the LID and hydromodification requirements were not *reimbursable* state mandates because the San Diego County test claimants were not under an obligation to construct projects that would trigger the permit requirements. San Diego Test Claim at 46, 52.

In support of this position, the Commission cited the California Supreme Court’s decision in *Department of Finance v. Comm’n on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727. In that case, the Court held that certain hearing requirements imposed upon school district did not constitute a reimbursable state mandate because they were a requirement of a voluntary program that the districts had elected to participate in. The Court held that “activities undertaken at the option or discretion of a local government entity (that is, actions undertaken without any legal compulsion or threat of penalty for nonparticipation) do not trigger a state mandate and hence do not require reimbursement.

The Court relied on *City of Merced v. State of California* (1984) 153 Cal.App.3d 777. In that case, the city elected to take property by eminent domain. Then-recent legislation required the city to compensate the property owner for loss of business goodwill. The city argued that the legislation constituted a reimbursable state mandate. The Court of Appeal concluded that the city’s increased costs flowed from its voluntary decision to condemn the property. 153 Cal.App.3d at 783.

The facts that dictated the Supreme Court’s decision in *Kern High School Dist.* are not present in this Test Claim. First, the MS4 permit program is not a voluntary program, but one required of municipalities with MS4 systems of a certain size. Second, the Permit requires the permittees, including Claimants, to take various mandatory steps, including incurring costs related the imposition of LID and hydromodification requirements on any municipal project, including projects constructing or rehabilitating hospitals, medical facilities, parks, parking lots and other facilities. These projects are not “optional,” but rather are integral to the permittees’ function as municipal entities. The failure to repair, upgrade or extend such facilities can pose a threat to public health and safety, and expose the permittees to liability.

City of Merced likewise is not applicable. In that case, the City had the choice either of purchasing the property in question or condemning it. The 2010 Permit offers no such options to the permittees, including Claimants. Permittees have no choice in designing their development projects to avoid imposition of the Permit requirements, since the requirements apply uniformly to a variety of projects depending only their size or location. *See* 2010 Permit, Section XII.D.2.b.

It may be noted that the California Supreme Court recently has rejected application of *City of Merced* beyond the circumstances present in *Kern High School Dist.* In *San Diego Unified*

School Dist. v. Comm'n on State Mandates (2004) 33 Cal.4th 859, the Court discussed *Kern High School Dist.* at length and cautioned against further reliance on the holding in *City of Merced*:

[T]here is reason to question an extension of the holding of *City of Merced* so as to preclude reimbursement under article XIII B, section 6 of the state Constitution and Government Code section 17514 whenever an entity makes an initial discretionary decision that in turn triggers mandated costs. Indeed, it would appear that under a strict application of the language in *City of Merced*, public entities would be denied reimbursement for state-mandated costs in apparent contravention of the intent underlying article XIII B, section 6 . . . and Government Code section 17514 and contrary to past decisions in which it has been established that reimbursement was in fact proper. For example . . . in *Carmel Valley, supra*, 190 Cal.App.3d 521, an executive order requiring that county firefighters be provided with protective clothing and safety equipment was found to create a reimbursable state mandate for the added costs of such clothing. . . . The court in *Carmel Valley* apparently did not contemplate that reimbursement would be foreclosed in that setting merely because a local agency possessed discretion concerning how many firefighters it would employ – and hence, in that sense, could control or perhaps even avoid the extra costs to which it would be subjected. Yet, under a strict application of the rule gleaned from *City of Merced* . . . such costs would not be reimbursable for the simple reason that the local agency's decision to employ firefighters involves an exercise of discretion concerning, for example, how many firefighters are needed to be employed, etc. We find it doubtful that the voters who enacted article XIII B, section 6, or the Legislature that adopted Government Code section 17514, intended that result, and hence we are reluctant to endorse, in this case, an application of the rule of *City of Merced* that might lead to such a result.

33 Cal.4th at 887-88.

Thus, reliance on the *City of Merced* rationale is appropriate *only* in the very limited circumstances presented in *Kern High School Dist.* These circumstances are not present with respect to the above-noted provisions of the 2010 Permit relating to the imposition of LID and hydromodification principles to public development projects.

A number of additional requirements in Section XII of the 2010 Permit do not involve even arguable “discretionary” projects, but rather the requirement to develop standard design and post-development BMP guidance for road projects, incorporation of BMPs into the design for culvert projects, the creation and maintenance of a database for tracking the operation and maintenance of structural post-construction BMPs, development of criteria and plan documentation, including under the LID provisions discussed above, and the inspection of permittee-owned structural post-construction BMPs. These requirements do not involve the “choice” of the permittees to build a project. Moreover, these requirements mandate the outlay of local funds without the ability to recover those funds through inspection fees, as might be the case for inspections of BMPs constructed for a private project.

3. Requirements of 2002 Permit

While the 2002 Permit contained requirements applicable to new development projects (2002 Permit, Section VIII), none of the requirements in the 2010 Permit set forth above are included in the 2002 Permit.

4. Mandated Activities

The requirements of Section XII included in this Test Claim are numerous, but include:

-- the requirement to develop and implement, and then maintain if on a permittee road, BMPs to reduce erosion and mitigate hydromodification in the design of culverts or bridge crossings;

-- the requirement to develop a WAP, requiring the development and submittal of proposed WAP to the Santa Ana RWQCB executive officer for approval; the development and implementation of the WAP, including describing proposed regional BMP approaches used to address urban Total Maximum Daily Load wasteload allocations, recommendations for specific retrofit studies of the MS4, parks and recreational areas, describing regional efforts to benefit water quality and describing how these effort link to the permittees' urban runoff programs and identify opportunities for further cooperation; the identification and delineation of existing unarmored or soft-armored stream channels that are vulnerable to hydromodification impacts from new development or significant redevelopment projects; development of a Hydromodification management plan ("HMP"), describing how the delineation of the channels will be used to manage hydromodification caused by urban runoff; development of the HMP to evaluate hydromodification impacts for channels deemed most susceptible to degradation, including identification of monitoring sites and followup monitoring; identification of impaired waters with identified urban runoff pollutant sources causing impairment, existing monitoring programs addressing the pollutants and BMPs that are currently implemented or proposed for implementation; develop a schedule to implement a regional geodatabase of the impaired waters, MS4 facilities, critical habitat preserves and stream channels vulnerable to urban runoff; develop a schedule to maintain the geodatabase; submit the WAP to the RWQCB executive officer for approval and incorporation into the DAMP and incorporate applicable provisions of the revised DAMP into the LIPs for watershed wide coordination of the WAP; incorporate WAP training and outreach and education to the development community; invite participation and comments from resource conservation districts and other parties in the development and use of the geodatabase.

-- the requirement to review each permittee's general plan and related documents to eliminate any barriers to implementation of LID principles and HCOC requirements, with any changes in project approval process or procedures to be reflected in the LIP.

-- the requirement to submit a revised WQMP to incorporate the new elements required by the 2010 Permit.

-- the requirement to update the WQMP to address LID principles and HCOC, and require development projects, including permittee development projects, to infiltrate, harvest and use, evapotranspire and/or bio-treat the 85th percentile storm event; incorporate LID site design

principles into the revised WQMP, and require new development and significant redevelopment projects to include site design BMPs during the development of project-specific WQMPs; revise permittee ordinances, codes and design standards to promote green infrastructure/LID techniques; develop and implement education programs to education property owners on using pollution prevention BMPs and to maintain hydrologically functional landscape controls; ensure that the revised WQMP will specify preferential use of site design BMPs that incorporate LID techniques where feasible; to prioritize site design BMPs; review WQMPs for new development and significant redevelopment projects to ensure that projects to do not pose a HCOC due to increased runoff volume and velocities; and, if a HCOC exists, evaluate the impacts and require implementation of additional BMPs to mitigate the impacts.

-- The requirement to develop standard design and post-development BMPs guidance to incorporate into street, road, highway and freeway improvement projects under the jurisdiction of the permittees; ensure that the guidance follows certain principles contained in U.S. EPA guidance; and implement the design and BMP guidance for all road projects, requiring both construction and ongoing maintenance for such BMPs.

-- The requirement to develop technically based feasibility criteria for project evaluation to determine the feasibility of implementing LID BMPs.

-- The requirement to maintain a database to track the operation and maintenance of structural post-construction BMPs and inspect within 18 months of adoption of the 2010 Permit and annually thereafter, prior to the rainy season, all permittee-owned structural post-construction BMPs installed after the effective date of the 2010 Permit.

5. Actual Increased Costs of Mandate

To comply with the requirements set forth in Section XII of the 2010 Permit identified in this Test Claim, the permittees, including Claimants, were required to spend monies to develop BMPs, develop and implement a WAP, to review and if required, amend each general plan and related documents, revise and submit a revised WQMP meeting specific requirements, develop a procedure for streamlining regulatory agency approval, incorporate LID principles and require permittee development and redevelopment projects to adopt those principles, revise ordinances and design codes to promote LID techniques, review permittee projects for HCOCs and mitigate such HCOCs, develop standard design and post-development BMP guidance for streets, roads and highways, develop criteria to determine the feasibility of implementing LID BMPs, install, operate and maintain additional BMPs, maintain a database to track structural post construction BMPs, and routinely inspect post-construction structural BMPs.

Claimants incurred increased costs of \$140,756.39 in FY 2010-11 and \$268,083.97 in FY 2011-12 with respect to these requirements. *See* Section 6 Claimants Declarations, Paragraph 5(f).

G. Training Program Enhancement

Section XV.C of the 2010 Permit requires that the permittees, including Claimants, conduct formal training of their employees responsible for implementing the requirements of the 2010 Permit, including with respect to WQMP review.

1. Requirements of 2010 Permit

SECTION XV

C. Formal Training: [relevant portions] The formal training programs shall educate Permittee employees responsible for implementing requirements of this Order, by providing training on the following Permittee activities: . . .WQMP review Formal training may be conducted in classrooms or using videos, DVDs or other multimedia. The program shall consider all applicable Permittee staff such as storm water program managers, construction/industrial/ commercial/residential inspectors, planners, engineers, public works crew, etc. and shall: define the required knowledge and competencies for each Permittee Activity, outline the curriculum, include testing or other procedures to determine that the trainees have acquired the requisite knowledge to carry out their duties, and provide proof of completion of training such as Certificate of Completion, and/or attendance sheets. The formal training curriculum shall:

- 1. Highlight the potential effects that Permittee or Public activities related to their job duties can have on water quality.*
- 2. Overview the principal applicable water quality laws and regulations that are the basis for the requirements in the DAMP.*
- 3. Discuss the provisions of the DAMP that relate to the duties of the target audience, including but not limited to;*

. . .

- b. Overview of CEQA requirements contained in Section XII.C of this Order .*

. . .

F. Schedule: At a minimum, the training schedule should include the following: [relevant portions]

- 1. New Permittee employees responsible for implementing requirements of this Order must receive informal training within six months of hire and formal training within one year of hire.*
- 2. Other existing Permittee employees responsible for implementing the requirements of this Order must receive formal training at least once during the term of this Order.*
- 3. The start date for training programs described in this Section shall be included in the schedule required in Section III.A.1.q, but shall be no later than six months after Executive Officer approval of DAMP updates applicable to the Permittee activities described in Section XIV.*

2. Requirements of Federal Law

Neither the CWA nor the federal CWA regulations require the training required in Section XV as an element of MS4 permits. Thus, the requirements in Section XV.C. and F. are state mandates, not federal requirements.

3. Requirements of 2002 Permit

The 2002 Permit contained some training requirements for permittee staff, such as training for persons conducting inspection of construction sites. However, the requirement to conduct training in WQMP review and in the requirements of CEQA as set forth in the 2010 Permit were not included in the 2002 Permit, and thus represent a new requirement.

4. Mandated Activities

Section XV.C. requires the permittees, including Claimants, to develop an additional training program for WQMP review and CEQA requirements and Section XV.F. requires implementation of that training in formal training sessions.

5. Actual Increased Costs of Mandate

The Claimants incurred increased costs of \$127,072.68 in FY 2010-11 and \$164,133.99 in FY 2011-12 with respect to these requirements. See Section 6 Claimant Declarations, Paragraph 5(g).

H. Program Management Assessment

Section XVII.A.3 of the 2010 permit contains a new requirement requiring the permittees to assess Urban Runoff management program effectiveness on an area wide as a jurisdiction-specific basis, using specified guidance.

1. Requirements of 2010 Permit

SECTION XVII

A. [relevant portions] In addition, the first Annual Report (November 2010) after adoption of this Order shall include the following:

3. Proposal for assessment of Urban Runoff management program effectiveness on an area wide as well as jurisdiction-specific basis. Permittees shall utilize the CASQA Guidance¹³ for developing these assessment measures at the six outcome levels. The assessment measures must target both water quality outcomes and the results of municipal enforcement activities consistent with the requirements of Appendix 3, Section IV.B.

¹³ CASQA, May 2007, Municipal Storm Water Program Effectiveness Assessment Guidance.

Please also see Appendix 4, Monitoring and Reporting Program, Section IV.B., included in Section 7 of the Test Claim.

2. Requirements of Federal Law

The federal CWA regulations contain a provision requiring “assessment of controls. Estimated reductions in loadings of pollutants from discharges of municipal storm water quality management program. The assessment shall also identify known impacts of storm water controls on ground water.” 40 CFR § 122.26(d)(2)(v).

However, the Commission already has determined in the San Diego County Test Claims that similar (albeit more elaborate) program assessment requirements in the San Diego County MS4 Permit were a state, not federal, mandate, because the federal regulatory requirements did not specify the detailed assessment set forth in that permit. San Diego County Test Claim, 83-86. Similarly, the requirements of Section XVII.A.3 are far more detailed and specific than those general assessment requirements. The 2010 Permit requires assessment on an area-wide as well as jurisdiction-specific basis, and requires use of guidance that employs assessment measures at six outcome levels, targeting both water quality outcomes and the result of municipal enforcement activities. None of this specificity is set forth in the federal regulations and the requirements of Section XVII.A.3 are therefore state, and not federal, mandates.

3. Requirements of 2002 Permit

The 2002 Permit did not contain the assessment requirements set forth in Section SVII.A.3 of the 2010 Permit. Thus, those requirements impose a new program and/or higher level of service on the permittees, including Claimants.

4. Mandated Activities

The requirements set forth in Section XVII.A.3 of the 2010 Permit require the permittees, including claimants, to develop and submit a proposal for assessment of the Urban Runoff management program effectiveness using specific guidance, and then to implement that assessment. This requires the permittees to develop mechanisms and databases to track, on an ongoing basis, additional information for each component of their Urban Runoff management program, such as, but not limited to the IC/ID programs, inspection programs, New Development Programs, Public Education and Training programs, and programs for Permittee Facilities and Activities required pursuant to the Permit. Further, it requires the Permittees to annually analyze that information for inferences that can be garnered regarding the effectiveness of their programs, and describe the findings and recommendations related to that analysis in annual reports.

5. Actual Increased Costs of Mandate

Claimants incurred increased costs of \$23,881.35 in FY 2010-11 and \$39,740.64 in FY 2011-12 in response to these requirements. *See* Section 6 Claimant Declarations, Paragraph 5(h). In addition, certain Claimants first incurred additional costs in subsequent FYs, as set forth in their Claimant Declarations, Paragraph 5(h).

VII. STATEWIDE COST ESTIMATE

This Test Claim concerns a municipal stormwater permit applicable only to local agencies located in a portion of Riverside County within the jurisdiction of the Santa Ana RWQCB. Therefore, any statewide cost estimate must, by virtue of this limitation, apply only to costs incurred by such local agencies. The Claimants estimate that, for all requirements set forth in the 2010 Permit that are the subject of this Test Claim, increased costs in the amount of \$1,269,590.40 were expended in FY 2010-11 and \$1,906,279 was expended in FY 2011-12. See Section 6 Claimant Declarations, Paragraphs (a)-(h) and Declaration of David Garcia, also included in Section 6.

VIII. 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. As set forth in the Declarations contained in Section 6 of this Test Claim, some Claimants have available local or regional fees or taxes that fund aspects of 2010 Permit activities. However, as also set forth in those Declarations, in no cases do Claimants assert that such fees will cover all increased costs represented by the programs and activities set forth in this Test Claim. The Claimants do not have other fee authority to offset these new and additional costs. It should be further noted that with the passage of Proposition 26 by the voters in November, the ability of the Claimants to raise new fees has been further constrained.

IX. 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 2010 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.

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

Section 5: Narrative Statement In Support of Joint Test Claim of Riverside County Local Agencies Concerning Santa Ana RWQCB Order No. R8-2010-0033 (NPDES No. CAS 618033), Santa Ana Water Permit – County of Riverside, 10-TC-07

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 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.

X. CONCLUSION

The permittees under the 2010 Permit maintain a good working relationship with the Santa Ana RWQCB and its staff. The permittees, including Claimants, are committed to working together with the RWQCB and other stakeholders to achieve the clean water goals set forth in the 2010 Permit.

Nonetheless, important elements of the 2010 Permit represent significant and expensive mandates at a time when the budgets of all local agencies, especially those in Riverside County, have been dramatically impacted by recession and other challenges. The Claimants believe 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 6

DECLARATIONS

In Support of Joint Test Claim of Riverside County Local Agencies Concerning Santa Ana RWQCB Order No. R8-2010-0033 (NPDES No. CAS 618033), Santa Ana Water Permit – County of Riverside, 10-TC-07

DECLARATION OF STUART MCKIBBIN

RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

I, STUART MCKIBBIN, hereby declare and state as follows:

1. I am Chief of the Watershed Protection Division for the Riverside County Flood Control and Water Conservation District ("District"). In that capacity in the District, I share responsibility for the compliance of the District with regard to the requirements of California Regional Water Quality Control Board, Santa Ana Region ("Santa Ana RWQCB"), Order No. R8-2010-0033 ("the Permit") as they apply to the District.

2. I have reviewed sections of the Permit as set forth herein and am familiar with those provisions. I have also reviewed pertinent sections of Order No. R8-2002-0011 ("2002 Permit"), which was issued by the Santa Ana RWQCB in 2002, and am familiar with those provisions.

3. I have an understanding of the District'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 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 do so to the matters set forth herein.

5. Based on my understanding of the Permit, and the requirements of the 2002 Permit, I believe that the Permit requires the Permittees covered by it, including the District, to undertake the following new and/or upgraded activities not required by the 2002 Permit and which are unique to local government entities:

a. Local Implementation Plan Requirement: Section IV of the Permit, along with Section VIII.H, Section IX.C, Section XII.A.1 and Section XII.H, require the Permittees, including the District, to create a template Local Implementation Plan (“LIP”) for submission to the Santa Ana RWQCB’s Executive Officer and, after approval of that template, to develop individual LIPs which set forth in detail the specific elements of Section IV of the Permit. The tasks required include the creation of individual LIPs, with the identification of personnel, programs and other tasks, and also the review and periodic updating of those LIPs over the course of the Permit and continuing thereafter. I am informed and believe and therefore state that certain of these requirements, including development of the template LIP documents, was conducted by the District in part through funding provided by the District pursuant to its obligations under the Implementation Agreement (included in Section 7 of the Test Claim) entered into by the Permittees. I am further informed and believe that in Fiscal Year (“FY”) 2010-11, the District’s share of the cost to develop the template LIP documents was \$817.07 and that during FY 2011-12, the District’s share of that cost was \$2,879.95. I am further informed and believe and therefore state that the District incurred estimated additional direct costs of \$10,535 during FY 2011-12 and \$10,813 during FY 2012-13 to implement the requirements of the Permit set forth above.

b. [Reserved]

c. Enhancement of Illicit Connections/Illegal Discharges Requirements with IDDE Program: Sections IX.D, IX.E. and IX.H of the Permit, along with Section III.E.3 of the Monitoring and Reporting Program, Appendix 3 to the Permit, requires that the Permittees, including the District, develop and include a “pro-active” Illicit Discharge Detection and Elimination (“IDDE”) program as part of their illicit connections/illegal discharges program, and

then to use that program to investigate and track potential illegal discharges. The Permittees also are required to maintain a database, which must be submitted with the Permittees' Annual Reports. I am informed and believe and therefore state that certain aspects of these requirements were funded by the Permittees, including the District, through the Implementation Agreement and that the District's share of the cost of those requirements in FY 2013-14 was \$22,786.74. I am further informed and believe that the District spent an additional \$11,400 in FY 2012-13 and an estimated \$34,307 in FY 2013-14 in direct costs to address these requirements.

d. [Reserved.]

e. Enhanced Facilities Requirements: Sections XI.D.1, XI.D.6, XI.D.7 and XI.E.6 of the Permit required the Permittees to identify facilities that transport, store or transfer pre-production plastic pellets and managed turf facilities to determine whether these facilities warranted additional inspections; to notify all mobile businesses concerning minimum source control and pollution prevention best management practices ("BMPs") that will be required of those businesses; to notify mobile businesses operating within their jurisdiction; to develop an enforcement strategy to address mobile businesses; and to evaluate the Permittee's residential program in its Annual Report. I am informed and believe and therefore state that certain of these requirements were funded by the Permittees, including the District, and that the District's share of the cost of those requirements was \$1,742.25 in FY 2010-11.

f. Enhanced New Development Requirements: Section XII of the Permit contains numerous new requirements relating to new development and significant re-development projects. These include requirements to include new and revised programs for Low Impact Development ("LID") BMPs and BMPs to reduce erosion and mitigate hydromodification; to

develop and implement a comprehensive Watershed Action Plan (“WAP”) to address urbanization impacts in the area covered by the 2010 Permit; to revise and submit a revised Water Quality Management Plan (“WQMP”) to address the “new elements required” in the Permit; to develop a procedure for streamlining regulatory agency approval of regional Treatment Control BMPs; to incorporate and require District development and significant redevelopment projects to incorporate LID principles; to review District projects for new Hydrologic Conditions of Concern (“HCOC”) requirements and to mitigate such HCOCs; to develop standard design and post-development BMP guidance for street, road and highway projects; to develop criteria for determining the feasibility of implementing LID BMPs; and to maintain a database to track the operation and maintenance of structural post construction BMPs installed after adoption of the Permit. The development of the WAP, revised WQMP document, streamlining of regulatory requirements and development of new BMPs and other criteria was conducted by the District, with funding provided in part from the other Permittees through the Implementation Agreement. I am informed and believe and therefore state that certain of the costs to implement these requirements was funded by the Permittees, including the District, through the Implementation Agreement and that the District’s share of such costs in FY 2010-11 was \$17,543.48 and in FY 2011-12 was \$92,193.14. I am further informed and believe that the District incurred estimated direct costs of \$8,232 in FY 2010-11 and \$15,990 in FY 2011-12 to implement these requirements as they applied to the District.

g. Training Requirements: Section XV.C of the Permit required the Permittees, including the District, to conduct formal training of their employees, including with respect to WQMP reviews and in CEQA requirements set forth in the Permit. I am informed and believe and therefore state, that the District conducted such training and that the cost of the training was

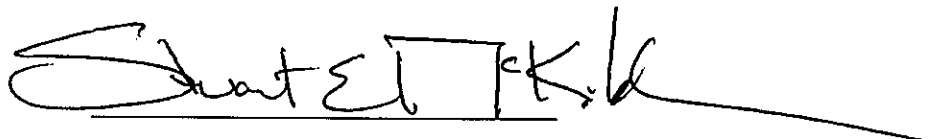
shared by the Permittees, including the District, through the Implementation Agreement. I am further informed and believe and therefore state that the District's share of such costs was \$13,938.88 in FY 2010-11 and \$12,043.08 in FY 2011-12. I am further informed and believe that the District incurred estimated direct costs of \$27,150 in FY 2010-11 and \$55,650 in FY 2011-12 to implement these requirements as they applied to the District.

h. Program Management Assessment Requirements: Section XVII.A.3 of the Permit as well as Section IV.B of the Monitoring and Reporting Program, Appendix 3 to the Permit, require the Permittees, including the District, to develop and submit a proposal for assessment of the Urban Runoff management program effectiveness using specific guidance, and then to implement that assessment, requiring the Permittees, including the District, to develop mechanisms and databases to track, on an ongoing basis, additional information for each component of their Urban Runoff management program, such as, but not limited to, the IC/ID programs, inspection programs, new development programs, public education and training programs, and programs for Permittee facilities and activities required pursuant to the Permit. Further, the Permittees, including the District, are required to annually analyze that information for inferences that can be obtained regarding program effectiveness, and describe related findings and recommendations in annual reports. I am informed and believe and therefore state, that the District prepared the program management assessment guidance and that the District incurred direct costs to implement the assessment with respect to the District's urban runoff programs. I am further informed and believe and therefore state that the District incurred estimated direct costs of \$9,846 in FY 2012-13 to develop the program.

6. I am informed and believe that there are no dedicated state or federal 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. In 1991, the District established the Santa Ana Watershed Benefit Assessment to fund its MS4 compliance activities. Currently, the Benefit Assessment pays for aspects of the District's compliance with the Permit. The District anticipates no increase in the fees generated by the Benefit Assessment. I am not aware of any other fee or tax that the District would have the discretion to impose under California law to recover any portion of the cost of these programs and activities. I further am informed and believe that the only other source to pay for these new programs and activities would be the District's general fund.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed March 27, 2017, at Riverside, California.

A handwritten signature in black ink, appearing to read "Stuart McKibbin", with a long horizontal line extending to the right from the end of the signature.

Stuart McKibbin

DECLARATION OF DAVID GARCIA

RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

I, DAVID GARCIA, hereby declare and state as follows:

1. I am an Engineering Project Manager within the Watershed Protection Division of the Riverside County Flood Control and Water Conservation District (“District”). My job responsibilities include serving as the supervisor for the Santa Ana River watershed with respect to municipal stormwater permitting issues. In that capacity for the District, I have first-hand and personal knowledge of monies spent by the District on behalf of itself and on behalf of permittees to address requirements under the requirements of California Regional Water Quality Control Board, Santa Ana Region Order No. R8-2010-0033 (the “Permit”).

2. I have reviewed sections of the Permit as set forth in the Section 5 Narrative Statement and the Section 6 Declarations of this Test Claim and am familiar with such provisions and how they are implemented by the permittees subject to the Permit (the “Permittees”), including the Claimants under this Test Claim.

3. I have reviewed and have knowledge of financial records showing expenditures by the Permittees, including Claimants, and have created summaries reflecting those expenditures, which have been provided to Claimant representatives along with backup materials.

4. I make this declaration based on my own personal knowledge, except for matters set forth herein 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 do so as to the matters set forth herein.

5. The District is designated as Principal Permittee under the Permit, and in that role, coordinated and coordinates the response to certain of the Permit requirements set forth in this

Test Claim as part of shared costs paid by the Permittees under the Implementation Agreement entered into by and between the Permittees.

6. From my review of records of payments made with respect to such Permit requirements, I am informed and believe and therefore state that the Permittees, including Claimants, spent \$68,083.33 in Fiscal Year ("FY") 2010-11 and \$214,232.32 in FY 2011-12 with respect to such shared cost payments for various of the requirements set forth in the Test Claim.

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

Executed March 27, 2017 at Riverside, California.



David Garcia

DECLARATION OF STEVEN HORN
COUNTY OF RIVERSIDE

I, STEVEN HORN, hereby declare and state as follows:

1. I am Principal Management Analyst and NPDES Stormwater Program Administrator in the Executive Office of the County of Riverside ("County"). In that capacity in the County, I share responsibility for the compliance of the County with regard to the requirements of California Regional Water Quality Control Board, Santa Ana Region ("Santa Ana RWQCB"), Order No. R8-2010-0033 ("the Permit") as they apply to the County.

2. I have reviewed sections of the Permit as set forth herein and am familiar with those provisions. I have also reviewed pertinent sections of Order No. R8-2002-0011 ("2002 Permit"), which was issued by the Santa Ana RWQCB in 2002, and am familiar with those provisions.

3. I have an understanding of the County'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 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 do so to the matters set forth herein.

5. Based on my understanding of the Permit, and the requirements of the 2002 Permit, I believe that the Permit requires the permittees covered by it, including the County, to undertake the following new and/or upgraded activities not required by the 2002 Permit and which are unique to local government entities:

a. Local Implementation Plan Requirement: Section IV of the Permit, along with Section VIII.H, Section IX.C, Section XII.A.1 and Section XII.H, require the permittees, including the County, to create a template Local Implementation Plan (“LIP”) for submission to the Santa Ana RWQCB’s Executive Officer and, after approval of that template, to develop individual LIPs which set forth in detail the specific elements of Section IV of the Permit. The tasks required include the creation of individual LIPs, with the identification of personnel, programs and other tasks, and also the review and periodic updating of those LIPs over the course of the Permit and continuing thereafter. I am informed and believe and therefore state that certain of these requirements, including development of the template LIP documents, was conducted by the Riverside County Flood Control and Water Conservation District (“District”) in part through funding provided by the County pursuant to its obligations under the Implementation Agreement (included in Section 7 of the Test Claim) entered into by the permittees. I am further informed and believe that in Fiscal Year (“FY”) 2010-11, the County’s calculated share of the cost to develop the template LIP documents was \$145.38 and that during FY 2011-12, the County’s calculated share of that cost was \$286.31. I am further informed and believe and therefore state that the County incurred estimated additional direct costs of \$10,000 during FY 2010-11 and \$10,000 during FY 2011-12 to implement the requirements of the Permit set forth above.

b. [Reserved]

c. Enhancement of Illicit Connections/Illegal Discharges Requirements with IDDE Program: Sections IX.D, IX.E. and IX.H of the Permit, along with Section III.E.3 of the Monitoring and Reporting Program, Appendix 3 to the Permit, requires that the permittees, including the County, develop and include a “pro-active” Illicit Discharge Detection and

Elimination (“IDDE”) program as part of their illicit connections/illegal discharges program, and then to use that program to investigate and track potential illegal discharges. The permittees also are required to maintain a database, which must be annually updated and submitted with the permittees’ Annual Reports. I am informed and believe and therefore state that certain aspects of these requirements were funded by the permittees, including the County, through the Implementation Agreement and that the County’s calculated share of the cost of those requirements in FY 2013-14 was \$1,531.26. I am further informed and believe that the County spent an additional \$809,335 in FY 2010-11 and \$1,228,789 in FY 2011-12 in direct costs to address these requirements.

d. Septic System Database: Section X.C of the Permit requires the County Department of Environmental Health to maintain updates to an inventory of septic systems in the jurisdiction of each permittee under the Permit in a database of such systems approved since 2008. This requires the County to develop and implement such a database, and to update it periodically. I am informed and believe that the estimated cost to the County of this requirement in FY 2010-11 was \$5,000 and in FY 2011-12 was \$5,000.

e. Enhanced Facilities Requirements: Sections XI.D.1, XI.D.6, XI.D.7 and XI.E.6 of the Permit require the permittees, including the County, to identify facilities that transport, store or transfer pre-production plastic pellets and managed turf facilities to determine whether these facilities warranted additional inspections; to notify all mobile businesses concerning minimum source control and pollution prevention best management practices (“BMPs”) that will be required of those businesses; to notify mobile businesses operating within their jurisdiction; to develop an enforcement strategy to address mobile businesses; and to evaluate the permittee’s residential program in its Annual Report. I am informed and believe and therefore state that

certain of these requirements were funded by the permittees, including the County, through the Implementation Agreement and that the County's calculated share of the cost of those requirements was \$310.00 in FY 2010-11. I am further informed and believe that the County spent an estimated additional \$75,000 in FY 2010-11 and \$75,000 in FY 2011-12 in direct costs to address these requirements.

f. Enhanced New Development Requirements: Section XII of the Permit contains numerous requirements relating to new development and significant re-developments. These requirements include those to include new and revised programs for Low Impact Development ("LID") BMPs; BMPs to reduce erosion and mitigate hydromodification; to develop and implement a comprehensive Watershed Action Plan ("WAP") to address urbanization impacts in the area covered by the Permit; to review and if required, amend each permittee's general plan and related documents; to eliminate barriers to implementation of LID principles and Hydrologic Conditions of Concern ("HCOC"); to revise and submit a revised Water Quality Management Plan ("WQMP") to address the "new elements required" in the Permit; to develop a procedure for streamlining regulatory agency approval of regional Treatment Control BMPs; to incorporate and require County development and significant redevelopment projects to incorporate LID principles; to revise County ordinances and design codes to promote LID techniques; to review County projects for HCOCs and to mitigate such HCOCs; to develop standard design and post-development BMP guidance for County street, road and highway projects; to develop criteria for determining the feasibility of implementing LID BMPs; and to maintain a database to track the operation and maintenance of structural post construction BMPs installed after adoption of the Permit. I am informed and believe and therefore state that certain of the costs to implement these requirements was funded by the permittees, including the County, through the Implementation

Agreement and that the County's calculated share of such costs in FY 2010-11 was \$3,121.50 and in FY 2011-12 was \$9,165.45. I am further informed and believe that the County incurred estimated direct costs of \$75,000 in FY 2010-11 and \$75,000 in FY 2011-12 to implement these requirements as they applied to the County.

g. Training Requirements: Section XV.C of the Permit required the permittees, including the County, to conduct formal training of their employees, including with respect to WQMP reviews and in CEQA requirements set forth in the Permit. I am informed and believe and therefore state, that the District conducted such training and that the cost of the training was shared by the permittees, including the County, through the Implementation Agreement. I am further informed and believe and therefore state that the County's calculated share of such costs was \$2,480.14 in FY 2010-11 and \$1,197.27 in FY 2011-12. I am further informed and believe that the County incurred direct costs of \$76,900 in FY 2010-11 and \$87,947 in FY 2011-12 to implement these requirements as they applied to the County.

h. Program Management Assessment Requirements: Section XVII.A.3 of the Permit as well as Section IV.B of the Monitoring and Reporting Program, Appendix 3 to the Permit, require the permittees, including the County, to develop and submit a proposal for assessment of the Urban Runoff management program effectiveness using specific guidance, and then to implement that assessment, requiring the permittees, including the County, to develop mechanisms and databases to track, on an ongoing basis, additional information for each component of their Urban Runoff management program, such as, but not limited to, the IC/ID programs, inspection programs, new development programs, public education and training programs, and programs for permittee facilities and activities required pursuant to the Permit. Further, the permittees, including the County, are required to annually analyze that information

for inferences that can be obtained regarding program effectiveness, and describe related findings and recommendations in annual reports. I am informed and believe and therefore state, that the District prepared the program management assessment guidance and that the County incurred direct costs to implement the assessment with respect to the County's urban runoff programs. I am further informed and believe and therefore state that the County incurred direct costs of \$ 6,325.76 in FY 2010-11 and \$28,588 in FY 2011-12 to implement the program.

6. 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 informed and believe that certain of the programs set forth above are funded in part by the proceeds of fuel taxes collected in the County. I am further informed and believe that such proceeds are not sufficient to fund all programs set forth in this declaration. I am not aware of any other fee or tax that the County would have the discretion to impose under California law to recover any portion of the cost of these programs and activities. I further am informed and believe that the only other available source to pay for these new programs and activities is the County's general fund.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed March 27, 2017, at Riverside, California.

A handwritten signature in black ink, appearing to read "Steven Horn", written over a horizontal line.

Steven Horn



CITY OF BEAUMONT

DECLARATION OF AMER JAKHER CITY OF BEAUMONT

I, AMER JAKHER, hereby declare and state as follows:

1. I am the Public Works Director/ City Engineer in the City of Beaumont ("City"). In that capacity in the City, I share responsibility for the compliance of the City with regard to the requirements of California Regional Water Quality Control Board, Santa Ana Region ("Santa Ana RWQCB"), Order No. R8-2010-0033 ("the Permit") as they apply to the City.

2. I have reviewed sections of the Permit as set forth herein and am familiar with those provisions. I have also reviewed pertinent sections of Order No. R8-2002-0011 ("2002 Permit"), which was issued by the Santa Ana RWQCB in 2002, and am familiar with those provisions.

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 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 do so to the matters set forth herein.

5. Based on my understanding of the 2010 Permit, and the requirements of the 2002 Permit, I believe that the copermittees designated in it, including the City are, to undertake the following new and/or upgraded activities which are not required by the 2002 Permit and which are unique to local government entities:

a. Local Implementation Plan Requirement: Section IV of the Permit, along with Section VIII.H, Section IX.C, Section XII.A.1 and Section XII.H, require the permittees, including the City, to create a template Local Implementation Plan (“LIP”) for submission to the Santa Ana RWQCB’s Executive Officer and, after approval of that template, to develop individual LIPs which set forth in detail the specific elements of Section IV of the Permit. The tasks required include the creation of LIPs for each permittee, with the identification of personnel, programs and other tasks, and also the review and periodic updating of those LIPs over the course of the Permit and continuing thereafter. I am informed and believe and therefore state that certain of these requirements, including development of the template LIP documents, was conducted by the Riverside County Flood Control and Water Conservation District (“District”) in part through funding provided by the City pursuant to its obligations under the Implementation Agreement (included in Section 7 of the Test Claim) entered into by the permittees. I am further informed and believe that in Fiscal Year (“FY”) 2010-11, the City’s calculated share of the cost to develop the template LIP documents was \$21.85 and that during FY 2011-12, the City’s calculated share of that cost was \$83.82. I am further informed and believe that the City incurred direct costs to address these requirements but that the City cannot quantify those costs at this time.

b. [Reserved]

c. Enhancement of Illicit Connections/Illegal Discharges Requirements with IDDE Program: Sections IX.D, IX.E. and IX.H of the Permit, along with Section III.E.3 of the Monitoring and Reporting Program, Appendix 3 to the Permit, requires that the permittees, including the City, develop and include a “pro-active” Illicit Discharge Detection and Elimination (“IDDE”) program as part of their illicit connections/illegal discharges program, and

March 21, 2017

Page 3 of 6

then to use that program to investigate and track potential illegal discharges. The permittees also are required to maintain a database, which must be annually updated and submitted with the permittees' Annual Reports. I am informed and believe and therefore state that certain aspects of these requirements were funded by the permittees, including the City, through the Implementation Agreement and that the City's calculated share of the cost of those requirements in FY 2013-14 was \$519.56. I am further informed and believe that the City spent an additional estimated \$5,000 in FY 2010-11 and \$5,000 in FY 2011-12 in direct costs to address these requirements.

d. [Reserved]

e. Enhanced Facilities Requirements: Sections XI.D.1, XI.D.6, XI.D.7 and XI.E.6 of the Permit require the permittees, including the City, to identify facilities that transport, store or transfer pre-production plastic pellets and managed turf facilities to determine whether these facilities warranted additional inspections; to notify all mobile businesses concerning minimum source control and pollution prevention best management practices ("BMPs") that will be required of those businesses; to notify mobile businesses operating within their jurisdiction; to develop an enforcement strategy to address mobile businesses; and to evaluate the permittee's residential program in its Annual Report. I am informed and believe and therefore state that certain of these requirements were funded by the permittees, including the City, through the Implementation Agreement and that the City's calculated share of the cost of those requirements was \$46.60 in FY 2010-11. I am further informed and believe that the City incurred direct costs to address these requirements but that the City cannot quantify those costs at this time.

f. Enhanced New Development Requirements: Section XII of the Permit contains numerous requirements relating to new development and significant re-developments. These

March 21, 2017

Page 4 of 6

requirements include those to include new and revised programs for Low Impact Development (“LID”) BMPs; BMPs to reduce erosion and mitigate hydromodification; to develop and implement a comprehensive Watershed Action Plan (“WAP”) to address urbanization impacts in the area covered by the Permit; to review and if required, amend each permittee’s general plan and related documents; to eliminate barriers to implementation of LID principles and Hydrologic Conditions of Concern (“HCOC”); to revise and submit a revised Water Quality Management Plan (“WQMP”) to address the “new elements required” in the Permit; to develop a procedure for streamlining regulatory agency approval of regional Treatment Control BMPs; to incorporate and require City development and significant redevelopment projects to incorporate LID principles; to revise City ordinances and design codes to promote LID techniques; to review City projects for HCOCs and to mitigate such HCOCs; to develop standard design and post-development BMP guidance for City street, road and highway projects; to develop criteria for determining the feasibility of implementing LID BMPs; and to maintain a database to track the operation and maintenance of structural post construction BMPs installed after adoption of the Permit. I am informed and believe and therefore state that certain of the costs to implement these requirements was funded by the permittees, including the City, through the Implementation Agreement and that the City’s calculated share of such costs in FY 2010-11 was \$469.20 and in FY 2011-12 was \$2,683.24. I am further informed and believe that the City incurred direct costs to address these requirements but that the City cannot quantify those costs at this time.

g. Training Requirements: Section XV.C of the Permit required the permittees, including the City, to conduct formal training of their employees, including with respect to WQMP reviews and in CEQA requirements set forth in the Permit. I am informed and believe and therefore state, that the District conducted such training and that the cost of the training was

March 21, 2017

Page 5 of 6

shared by the permittees, including the City, through the Implementation Agreement. I am further informed and believe and therefore state that the City's calculated share of such costs was \$372.80 in FY 2010-11 and \$350.51 in FY 2011-12. I am further informed and believe that the City incurred direct costs to address these requirements but that the City cannot quantify those costs at this time.

h. Program Management Assessment Requirements: Section XVII.A.3 of the Permit as well as Section IV.B of the Monitoring and Reporting Program, Appendix 3 to the Permit, require the permittees, including the City, to develop and submit a proposal for assessment of the Urban Runoff management program effectiveness using specific guidance, and then to implement that assessment, requiring the permittees, including the City, to develop mechanisms and databases to track, on an ongoing basis, additional information for each component of their Urban Runoff management program, such as, but not limited to, the IC/ID programs, inspection programs, new development programs, public education and training programs, and programs for permittee facilities and activities required pursuant to the Permit. Further, the permittees, including the City, are required to annually analyze that information for inferences that can be obtained regarding program effectiveness, and describe related findings and recommendations in annual reports. I am informed and believe and therefore state, that the District prepared the program management assessment guidance and that the City incurred direct costs to implement the assessment with respect to the City's urban runoff programs. I am further informed and believe that the City incurred direct costs to address these requirements but that the City cannot quantify those costs at this time.

6. 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

March 21, 2017

Page 6 of 6

activities set forth in this Declaration. I am not aware of any 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 further am informed and believe that the only available source to pay for these new programs and activities is the City's general fund.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed March 22, 2017, at Beaumont, California.



Amer Jakher

DECLARATION OF TOM MOODY

CITY OF CORONA

I, Tom Moody, hereby declare and state as follows:

1. I am the Assistant General Manager for the City of Corona (“City”) Department of Water and Power. In that capacity, I share responsibility for the compliance of the City with regard to the requirements of California Regional Water Quality Control Board, Santa Ana Region (“Santa Ana RWQCB”), Order No. R8-2010-0033 (“the Permit”) as they apply to the City.

2. I have reviewed sections of the Permit as set forth herein and am familiar with those provisions. I have also reviewed pertinent sections of Order No. R8-2002-0011 (“2002 Permit”), which was issued by the Santa Ana RWQCB in 2002, and am familiar with those provisions.

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 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 do so to the matters set forth herein.

5. Based on my understanding of the Permit, and the requirements of the 2002 Permit, I believe that the Permit requires the permittees covered by it, including the City, to undertake the following new and/or upgraded activities not required by the 2002 Permit and which are unique to local government entities:

a. Local Implementation Plan Requirement: Section IV of the Permit, along with Section VIII.H, Section IX.C, Section XII.A.1 and Section XII.H, require the permittees, including the City, to create a template Local Implementation Plan (“LIP”) for submission to the Santa Ana RWQCB’s Executive Officer and, after approval of that template, to develop individual LIPs which set forth in detail the specific elements of Section IV of the Permit. The tasks required include the creation of individual LIPs, with the identification of personnel, programs and other tasks, and also the review and periodic updating of those LIPs over the course of the Permit and continuing thereafter. I am informed and believe and therefore state that certain of these requirements, including development of the template LIP documents, was conducted by the Riverside County Flood Control and Water Conservation District (“District”) in part through funding provided by the City pursuant to its obligations under the Implementation Agreement (included in Section 7 of the Test Claim) entered into by the permittees. I am further informed and believe that in Fiscal Year (“FY”) 2010-11, the City’s calculated share of the cost to develop the template LIP documents was \$100.21 and that during FY 2011-12, the City’s calculated share of that cost was \$368.47. I am further informed and believe and therefore state that the City incurred additional direct costs of \$5,381.73 during FY 2012-13 and \$1,250.55 during FY 2014-15 to implement the requirements of the Permit set forth above.

b. [Reserved]

c. Enhancement of Illicit Connections/Illegal Discharges Requirements With IDDE Program: Sections IX.D, IX.E. and IX.H of the Permit, along with Section III.E.3 of the Monitoring and Reporting Program, Appendix 3 to the Permit, requires that the permittees, including the City, develop and include a “pro-active” Illicit Discharge Detection and Elimination (“IDDE”) program as part of their illicit connections/illegal discharges program, and

then to use that program to investigate and track potential illegal discharges. The permittees also are required to maintain a database, which must be annually updated and submitted with the permittees' Annual Reports. I am informed and believe and therefore state that certain aspects of these requirements were funded by the permittees, including the City, through the Implementation Agreement and that the City's calculated share of the cost of those requirements in FY 2013-14 was \$2,066.41. I am further informed and believe that the City spent an estimated additional \$1,458.12 in FY 2013-14 in direct costs to address these requirements.

d. [Reserved]

e. Enhanced Facilities Requirements: Sections XI.D.1, XI.D.6, XI.D.7 and XI.E.6 of the Permit require the permittees, including the City, to identify facilities that transport, store or transfer pre-production plastic pellets and managed turf facilities to determine whether these facilities warranted additional inspections; to notify all mobile business concerning minimum source control and pollution prevention best management practices ("BMPs") that will be required of those businesses; to notify mobile businesses operating within their jurisdiction; to develop an enforcement strategy to address mobile businesses; and to evaluate the permittee's residential program in its Annual Report. I am informed and believe and therefore state that certain of these requirements were funded by the permittees, including the City, through the Implementation Agreement and that the City's calculated share of the cost of those requirements was \$213.69 in FY 2010-11. I am further informed and believe that the City spent an additional \$2,118.15 in FY 2010-11 and \$320.40 in FY 2011-12 in direct costs to address these requirements.

f. Enhanced New Development Requirements: Section XII of the Permit contains numerous requirements relating to new development and significant re-developments. These

requirements include those to include new and revised programs for Low Impact Development (“LID”) BMPs, BMPs to reduce erosion and mitigate hydromodification, to develop and implement a comprehensive Watershed Action Plan (“WAP”) to address urbanization impacts in the area covered by the Permit, to review and if required, amend each permittee’s general plan and related documents, to eliminate barriers to implementation of LID principles and Hydrologic Conditions of Concern (“HCOC”), to revise and submit a revised Water Quality Management Plan (“WQMP”) to address the “new elements required” in the Permit, to develop a procedure for streamlining regulatory agency approval of regional Treatment Control BMPs, to incorporate and require City development and significant redevelopment projects to incorporate LID principles, to revise City ordinances and design codes to promote LID techniques, to review City projects for HCOCs and to mitigate such HCOCs, to develop standard design and post-development BMP guidance for City street, road and highway projects, to develop criteria for determining the feasibility of implementing LID BMPs, and to maintain a database to track the operation and maintenance of structural post construction BMPs installed after adoption of the Permit. I am informed and believe and therefore state that certain of the costs to implement these requirements was funded by the permittees, including the City, through the Implementation Agreement and that the City’s calculated share of such costs in FY 2010-11 was \$2,151.73 and in FY 2011-12 was \$11,795.36. I am further informed and believe that the City incurred direct costs to address these requirements but that the City cannot quantify those costs at this time.

g. Training Requirements: Section XV.C of the Permit required the permittees, including the City, to conduct formal training of their employees, including with respect to WQMP reviews and in CEQA requirements set forth in the Permit. I am informed and believe and therefore state, that the District conducted such training and that the cost of the training was shared by the permittees, including the City, through the Implementation Agreement. I am

further informed and believe and therefore state that the City's calculated share of such costs was \$1,709.62 in FY 2010-11 and \$1,540.81 in FY 2011-12. I am further informed and believe that the City incurred direct costs to address these requirements but that the City cannot quantify those costs at this time.

h. Program Management Assessment Requirements: Section XVII.A.3 of the Permit as well as Section IV.B of the Monitoring and Reporting Program, Appendix 3 to the Permit, require the permittees, including the City, to develop and submit a proposal for assessment of the Urban Runoff management program effectiveness using specific guidance, and then to implement that assessment, requiring the permittees, including the City, to develop mechanisms and databases to track, on an ongoing basis, additional information for each component of their Urban Runoff management program, such as, but not limited to, the IC/ID programs, inspection programs, new development programs, public education and training programs, and programs for permittee facilities and activities required pursuant to the Permit. Further, the permittees, including the City, are required to annually analyze that information for inferences that can be obtained regarding program effectiveness, and describe related findings and recommendations in annual reports. I am informed and believe and therefore state, that the District prepared the program management assessment guidance and that the City incurred direct costs to implement the assessment with respect to the City's urban runoff programs. I am further informed and believe and therefore state that the City incurred estimated direct costs of \$3,774.95 in FY 2010-11 and \$3,951.08 in FY 2011-12 to address these requirements.

6. I am informed and believe that there are no dedicated state or federal 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. The City has access to funding obtained through County Service Area

152 ("CSA 152"), which fund obligations of the City under the Permit. I am informed and believe that CSA 152 funding is not sufficient to cover all of the programs and activities set forth in this Declaration over the course of the Permit. I am not aware of any 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 further am informed and believe that the only other source to pay for these new programs and activities is the City's general fund.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed March 21, 2017, at the City of Corona, California.

A handwritten signature in black ink, appearing to read "Tom Moody", written over a horizontal line.

Tom Moody

DECLARATION OF KRISTEN JENSEN

CITY OF HEMET

I, Kristen Jensen, hereby declare and state as follows:

1. I am the Public Works Director for the City of Hemet ("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, Santa Ana Region ("Santa Ana RWQCB"), Order No. R8-2010-0033 ("the Permit") as they apply to the City.

2. I have reviewed sections of the Permit as set forth herein and am familiar with those provisions. I have also reviewed pertinent sections of Order No. R8-2002-0011 ("2002 Permit"), which was issued by the Santa Ana RWQCB in 2002, and am familiar with those provisions.

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 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 do so to the matters set forth herein.

5. Based on my understanding of the Permit, and the requirements of the 2002 Permit, I believe that the Permit requires the permittees covered by it, including the City, to undertake the following new and/or upgraded activities not required by the 2002 Permit and which are unique to local government entities:

a. Local Implementation Plan Requirement: Section IV of the Permit, along with Section VIII.H, Section IX.C, Section XII.A.1 and Section XII.H, require the permittees,

including the City, to create a template Local Implementation Plan (“LIP”) for submission to the Santa Ana RWQCB’s Executive Officer and, after approval of that template, to develop individual LIPs which set forth in detail the specific elements of Section IV of the Permit. The tasks required include the creation of individual LIPs, with the identification of personnel, programs and other tasks, and also the review and periodic updating of those LIPs over the course of the Permit and continuing thereafter. I am informed and believe and therefore state that certain of these requirements, including development of the template LIP documents, was conducted by the Riverside County Flood Control and Water Conservation District (“District”) in part through funding provided by the City pursuant to its obligations under the Implementation Agreement (included in Section 7 of the Test Claim) entered into by the permittees. I am further informed and believe that in Fiscal Year (“FY”) 2010-11, the City’s calculated share of the cost to develop the template LIP documents was \$50.15 and that during FY 2011-12, the City’s calculated share of that cost was \$185.73. I am further informed and believe that the City incurred additional direct costs in implementing these requirements but that the City cannot at this time quantify those costs.

b. Requirement to Upgrade Ordinances to Address Known Pathogen or Bacterial Indicator Sources: Section VIII.C of the Permit requires the permittees, including the City, to promulgate and implement ordinances that would control known pathogen or Bacterial Indicator sources such as animal wastes, if necessary. This requirement involved the development, drafting and necessary passage of a City ordinance to address such wastes, as well the development of an enforcement strategy and the enforcement of the ordinance. I am informed and believe and therefore state that the direct cost to the City with respect to this requirement was \$4,466.00 in FY 2011-12.

c. Enhancement of Illicit Connections/Illegal Discharges Requirements With IDDE Program: Sections IX.D, IX.E. and IX.H of the Permit, along with Section III.E.3 of the

Monitoring and Reporting Program, Appendix 3 to the Permit, requires that the permittees, including the City, develop and include a “pro-active” Illicit Discharge Detection and Elimination (“IDDE”) program as part of their illicit connections/illegal discharges program, and then to use that program to investigate and track potential illegal discharges. The permittees also are required to maintain a database, which must be annually updated and submitted with the permittees’ Annual Reports. I am informed and believe and therefore state that certain aspects of these requirements were funded by the permittees, including the City, through the Implementation Agreement and that the City’s calculated share of the cost of those requirements in FY 2013-14 was \$1,071.04. I am further informed and believe that the City spent an additional \$9,458 in FY 2010-11 and \$11,365 in FY 2011-12 in estimated direct costs to address these requirements.

d. [Reserved]

e. Enhanced Facilities Requirements: Sections XI.D.1, XI.D.6, XI.D.7 and XI.E.6 of the Permit require the permittees, including the City, to identify facilities that transport, store or transfer pre-production plastic pellets and managed turf facilities to determine whether these facilities warranted additional inspections; to notify all mobile business concerning minimum source control and pollution prevention best management practices (“BMPs”) that will be required of those businesses; to notify mobile businesses operating within their jurisdiction; to develop an enforcement strategy to address mobile businesses; and to evaluate the permittee’s residential program in its Annual Report. I am informed and believe and therefore state that certain of these requirements were funded by the permittees, including the City, through the Implementation Agreement and that the City’s calculated share of the cost of those requirements was \$106.93 in FY 2010-11. I am further informed and believe that the City spent an estimated

additional \$12,388 in FY 2010-11 and \$16,310 in FY 2011-12 in direct costs to address these requirements.

f. Enhanced New Development Requirements: Section XII of the Permit contains numerous requirements relating to new development and significant re-developments. These requirements include those to include new and revised programs for Low Impact Development (“LID”) BMPs, BMPs to reduce erosion and mitigate hydromodification, to develop and implement a comprehensive Watershed Action Plan (“WAP”) to address urbanization impacts in the area covered by the Permit, to review and if required, amend each permittee’s general plan and related documents, to eliminate barriers to implementation of LID principles and Hydrologic Conditions of Concern (“HCOC”), to revise and submit a revised Water Quality Management Plan (“WQMP”) to address the “new elements required” in the Permit, to develop a procedure for streamlining regulatory agency approval of regional Treatment Control BMPs, to incorporate and require City development and significant redevelopment projects to incorporate LID principles, to revise City ordinances and design codes to promote LID techniques, to review City projects for HCOCs and to mitigate such HCOCs, to develop standard design and post-development BMP guidance for City street, road and highway projects, to develop criteria for determining the feasibility of implementing LID BMPs, and to maintain a database to track the operation and maintenance of structural post construction BMPs installed after adoption of the Permit. I am informed and believe and therefore state that certain of the costs to implement these requirements was funded by the permittees, including the City, through the Implementation Agreement and that the City’s calculated share of such costs in FY 2010-11 was \$1,076.77 and in FY 2011-12 was \$5,945.67. I am further informed and believe that the City incurred estimated direct costs of \$10,139 in FY 2010-11 and \$11,755 in FY 2011-12 to implement these requirements as they applied to the City.

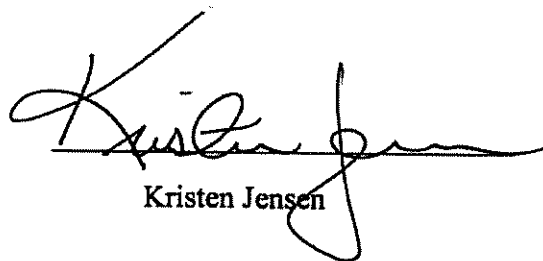
g. Training Requirements: Section XV.C of the Permit required the permittees, including the City, to conduct formal training of their employees, including with respect to WQMP reviews and in CEQA requirements set forth in the Permit. I am informed and believe and therefore state, that the District conducted such training and that the cost of the training was shared by the permittees, including the City, through the Implementation Agreement. I am further informed and believe and therefore state that the City's calculated share of such costs was \$855.53 in FY 2010-11 and \$776.68 in FY 2011-12. I am further informed and believe and therefore state that the City incurred estimated direct costs of \$2,960 in FY 2011-12 to implement the program.

h. Program Management Assessment Requirements: Section XVII.A.3 of the Permit as well as Section IV.B of the Monitoring and Reporting Program, Appendix 3 to the Permit, require the permittees, including the City, to develop and submit a proposal for assessment of the Urban Runoff management program effectiveness using specific guidance, and then to implement that assessment, requiring the permittees, including the City, to develop mechanisms and databases to track, on an ongoing basis, additional information for each component of their Urban Runoff management program, such as, but not limited to, the IC/ID programs, inspection programs, new development programs, public education and training programs, and programs for permittee facilities and activities required pursuant to the Permit. Further, the permittees, including the City, are required to annually analyze that information for inferences that can be obtained regarding program effectiveness, and describe related findings and recommendations in annual reports. I am informed and believe and therefore state, that the District prepared the program management assessment guidance and that the City incurred direct costs to implement the assessment with respect to the City's urban runoff programs. I am further

informed and believe and therefore state that the City incurred estimated direct costs of \$6,463 in FY 2010-11 and \$8,188 in FY 2011-12 to implement the program.

6. 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. The City of Hemet has a sewer and storm drain fee that is used in part for the payment of activities associated with the Permit. I am informed and believe that this fee cannot be raised except by vote of the people. I am further informed and believe that the proceeds from this fee will pay for some, but not all, of the programs set forth in this Declaration over the course of the Permit. I am further informed and believe that the only other source of funds for the requirements is the City's general fund.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed March 20, 2017, at Hemet, California.



Kristen Jensen

DECLARATION OF RITA K. THOMPSON

CITY OF LAKE ELSINORE

I, RITA K. THOMPSON, hereby declare and state as follows:

1. I am NPDES Program Coordinator for the City of Lake Elsinore (“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, Santa Ana Region (“Santa Ana RWQCB”), Order No. R8-2010-0033 (“the Permit”) as they apply to the City.

2. I have reviewed sections of the Permit as set forth herein and am familiar with those provisions. I have also reviewed pertinent sections of Order No. R8-2002-0011 (“2002 Permit”), which was issued by the Santa Ana RWQCB in 2002, and am familiar with those provisions.

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 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 do so to the matters set forth herein.

5. Based on my understanding of the Permit, and the requirements of the 2002 Permit, I believe that the Permit requires the permittees covered by it, including the City, to undertake the following new and/or upgraded activities not required by the 2002 Permit and which are unique to local government entities:

a. Local Implementation Plan Requirement: Section IV of the Permit, along with Section VIII.H, Section IX.C, Section XII.A.1 and Section XII.H, require the permittees,

including the City, to create a template Local Implementation Plan (“LIP”) for submission to the Santa Ana RWQCB’s Executive Officer and, after approval of that template, to develop individual LIPs which set forth in detail the specific elements of Section IV of the Permit. The tasks required include the creation of individual LIPs, with the identification of personnel, programs and other tasks, and also the review and periodic updating of those LIPs over the course of the Permit and continuing thereafter. I am informed and believe and therefore state that certain of these requirements, including development of the template LIP documents, was conducted by the Riverside County Flood Control and Water Conservation District (“District”) in part through funding provided by the City pursuant to its obligations under the Implementation Agreement (included in Section 7 of the Test Claim) entered into by the permittees. I am further informed and believe that in Fiscal Year (“FY”) 2010-11, the City’s calculated share of the cost to develop the template LIP documents was \$33.90 and that during FY 2011-12, the City’s calculated share of that cost was \$124.89. I am further informed and believe and therefore state that the City incurred additional direct costs of \$328.92 during FY 2011-12 and \$3,837.40 during FY 2012-13 to implement the requirements of the Permit set forth above.

b. [Reserved]

c. Enhancement of Illicit Connections/Illegal Discharges Requirements With IDDE Program: Sections IX.D, IX.E. and IX.H of the Permit, along with Section III.E.3 of the Monitoring and Reporting Program, Appendix 3 to the Permit, requires that the permittees, including the City, develop and include a “pro-active” Illicit Discharge Detection and Elimination (“IDDE”) program as part of their illicit connections/illegal discharges program, and then to use that program to investigate and track potential illegal discharges. The permittees also are required to maintain a database, which must be annually updated and submitted with the

permittees' Annual Reports. I am informed and believe and therefore state that certain aspects of these requirements were funded by the permittees, including the City, through the Implementation Agreement and that the City's calculated share of the cost of those requirements in FY 2013-14 was \$709.09. I am further informed and believe that the City spent an additional \$2,096.61 in FY 2010-11 and \$548.20 in FY 2012-13 in direct costs to address these requirements.

d. [Reserved]

e. Enhanced Facilities Requirements: Sections XI.D.1, XI.D.6, XI.D.7 and XI.E.6 of the Permit require the permittees, including the City, to identify facilities that transport, store or transfer pre-production plastic pellets and managed turf facilities to determine whether these facilities warranted additional inspections; to notify all mobile business concerning minimum source control and pollution prevention best management practices ("BMPs") that will be required of those businesses; to notify mobile businesses operating within their jurisdiction; to develop an enforcement strategy to address mobile businesses; and to evaluate the permittee's residential program in its Annual Report. I am informed and believe and therefore state that certain of these requirements were funded by the permittees, including the City, through the Implementation Agreement and that the City's calculated share of the cost of those requirements was \$72.29 in FY 2010-11. I am further informed and believe that the City spent an additional \$104.41 in FY 2010-11 and \$1,151.22 in FY 2011-12 in direct costs to address these requirements.

f. Enhanced New Development Requirements: Section XII of the Permit contains numerous requirements relating to new development and significant re-developments. These requirements include those to include new and revised programs for Low Impact Development

("LID") BMPs, BMPs to reduce erosion and mitigate hydromodification, to develop and implement a comprehensive Watershed Action Plan ("WAP") to address urbanization impacts in the area covered by the Permit, to review and if required, amend each permittee's general plan and related documents, to eliminate barriers to implementation of LID principles and Hydrologic Conditions of Concern ("HCOC"), to revise and submit a revised Water Quality Management Plan ("WQMP") to address the "new elements required" in the Permit, to develop a procedure for streamlining regulatory agency approval of regional Treatment Control BMPs, to incorporate and require City development and significant redevelopment projects to incorporate LID principles, to revise City ordinances and design codes to promote LID techniques, to review City projects for HCOCs and to mitigate such HCOCs, to develop standard design and post-development BMP guidance for City street, road and highway projects, to develop criteria for determining the feasibility of implementing LID BMPs, and to maintain a database to track the operation and maintenance of structural post construction BMPs installed after adoption of the Permit. I am informed and believe and therefore state that certain of the costs to implement these requirements was funded by the permittees, including the City, through the Implementation Agreement and that the City's calculated share of such costs in FY 2010-11 was \$727.88 and in FY 2011-12 was \$3,998.00. I am further informed and believe that the City incurred direct costs of \$3,132.33 in FY 2010-11 and \$2,403.72 in FY 2011-12 to implement these requirements as they applied to the City.

g. Training Requirements: Section XV.C of the Permit required the permittees, including the City, to conduct formal training of their employees, including with respect to WQMP reviews and in CEQA requirements set forth in the Permit. I am informed and believe and therefore state, that the District conducted such training and that the cost of the training was shared by the permittees, including the City, through the Implementation Agreement. I am

further informed and believe and therefore state that the City's calculated share of such costs was \$208.82 in FY 2010-11 and \$877.12 in FY 2011-12. . I am further informed and believe and therefore state that the City incurred direct costs of \$208.82 in FY 2010-11 and \$877.12 in FY 2011-12 to implement the program.

h. Program Management Assessment Requirements: Section XVII.A.3 of the Permit as well as Section IV.B of the Monitoring and Reporting Program, Appendix 3 to the Permit, require the permittees, including the City, to develop and submit a proposal for assessment of the Urban Runoff management program effectiveness using specific guidance, and then to implement that assessment, requiring the permittees, including the City, to develop mechanisms and databases to track, on an ongoing basis, additional information for each component of their Urban Runoff management program, such as, but not limited to, the IC/ID programs, inspection programs, new development programs, public education and training programs, and programs for permittee facilities and activities required pursuant to the Permit. Further, the permittees, including the City, are required to annually analyze that information for inferences that can be obtained regarding program effectiveness, and describe related findings and recommendations in annual reports. I am informed and believe and therefore state, that the District prepared the program management assessment guidance and that the City incurred direct costs to implement the assessment with respect to the City's urban runoff programs. I am further informed and believe and therefore state that the City incurred direct costs of \$ 417.64 in FY 2010-11 and \$438.56 in FY 2011-12 to implement the program.

6. I am informed and believe that there are no dedicated state or federal 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. The City has access to funding obtained through County Service Area

152 (“CSA 152”), which fund obligations of the City under the Permit. I am informed and believe that CSA 152 funding is not sufficient to cover all of the programs and activities set forth in this Declaration over the course of the Permit. I am not aware of any 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 further am informed and believe that the only other source to pay for these new programs and activities is the City’s general fund.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed March 21, 2017, at Lake Elsinore, California.

A handwritten signature in black ink, appearing to read "Rita K. Thompson", written over a horizontal line.

Rita K. Thompson

DECLARATION OF AHMAD R. ANSARI, P.E., PUBLIC WORKS DIRECTOR/CITY ENGINEER
CITY OF MORENO VALLEY

I, Ahmad R. Ansari, hereby declare and state as follows:

1. I am the Public Works Director/City Engineer for the City of Moreno Valley ("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, Santa Ana Region ("Santa Ana RWQCB"), Order No. R8-2010-0033 ("the Permit") as they apply to the City.

2. I have reviewed sections of the Permit as set forth herein and am familiar with those provisions. I have also reviewed pertinent sections of Order No. R8-2002-0011 ("2002 Permit"), which was issued by the Santa Ana RWQCB in 2002, and am familiar with those provisions.

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 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 do so to the matters set forth herein.

5. Based on my understanding of the Permit, and the requirements of the 2002 Permit, I believe that the Permit requires the permittees covered by it, including the City, to undertake the following new and/or upgraded activities not required by the 2002 Permit and which are unique to local government entities:

a. Local Implementation Plan Requirement: Section IV of the Permit, along with Section VIII.H, Section IX.C, Section XII.A.1 and Section XII.H, require the permittees, including the City, to create a template Local Implementation Plan (“LIP”) for submission to the Santa Ana RWQCB’s Executive Officer and, after approval of that template, to develop individual LIPs which set forth in detail the specific elements of Section IV of the Permit. The tasks required include the creation of individual LIPs, with the identification of personnel, programs and other tasks, and also the review and periodic updating of those LIPs over the course of the Permit and continuing thereafter. I am informed and believe and therefore state that certain of these requirements, including development of the template LIP documents, was conducted by the Riverside County Flood Control and Water Conservation District (“District”) in part through funding provided by the City pursuant to its obligations under the Implementation Agreement (included in Section 7 of the Test Claim) entered into by the permittees. I am further informed and believe that in Fiscal Year (“FY”) 2010-11, the City’s calculated share of the cost to develop the template LIP documents was \$125.64 and that during FY 2011-12, the City’s calculated share of that cost was \$461.85. I am further informed and believe that the City incurred direct costs to implement these requirements but that the City cannot at this time quantify those costs.

b. Requirement to Upgrade Ordinances to Address Known Pathogen or Bacterial Indicator Sources: Section VIII.C of the Permit requires the permittees, including the City, to promulgate and implement ordinances that would control known pathogen or Bacterial Indicator sources such as animal wastes, if necessary. This requirement involved the development, drafting and necessary passage of a City ordinance to address such wastes, as well the

development of an enforcement strategy and the enforcement of the ordinance. I am informed and believe and therefore state that the [estimated] direct cost to the City with respect to this requirement was \$7,000.00 in FY 2010-11.

c. Enhancement of Illicit Connections/Illegal Discharges Requirements With IDDE

Program: Sections IX.D, IX.E. and IX.H of the Permit, along with Section III.E.3 of the Monitoring and Reporting Program, Appendix 3 to the Permit, requires that the permittees, including the City, develop and include a “pro-active” Illicit Discharge Detection and Elimination (“IDDE”) program as part of their illicit connections/illegal discharges program, and then to use that program to investigate and track potential illegal discharges. The permittees also are required to maintain a database, which must be annually updated and submitted with the permittees’ Annual Reports. I am informed and believe and therefore state that certain aspects of these requirements were funded by the permittees, including the City, through the Implementation Agreement and that the City’s calculated share of the cost of those requirements in FY 2013-14 was \$2,627.74. I am further informed and believe that the City incurred direct costs to implement these requirements but that the City cannot at this time quantify those costs.

d. [Reserved]

e. Enhanced Facilities Requirements: Sections XI.D.1, XI.D.6, XI.D.7 and XI.E.6 of the Permit require the permittees, including the City, to identify facilities that transport, store or transfer pre-production plastic pellets and managed turf facilities to determine whether these facilities warranted additional inspections; to notify all mobile business concerning minimum source control and pollution prevention best management practices (“BMPs”) that will be required of those businesses; to notify mobile businesses operating within their jurisdiction; to

develop an enforcement strategy to address mobile businesses; and to evaluate the permittee's residential program in its Annual Report. I am informed and believe and therefore state that certain of these requirements were funded by the permittees, including the City, through the Implementation Agreement and that the City's calculated share of the cost of those requirements was \$267.91 in FY 2010-11. I am further informed and believe that the City incurred direct costs to implement these requirements but that the City cannot at this time quantify those costs.

f. Enhanced New Development Requirements: Section XII of the Permit contains numerous requirements relating to new development and significant re-developments. These requirements include those to include new and revised programs for Low Impact Development ("LID") BMPs, BMPs to reduce erosion and mitigate hydromodification, to develop and implement a comprehensive Watershed Action Plan ("WAP") to address urbanization impacts in the area covered by the Permit, to review and if required, amend each permittee's general plan and related documents, to eliminate barriers to implementation of LID principles and Hydrologic Conditions of Concern ("HCOC"), to revise and submit a revised Water Quality Management Plan ("WQMP") to address the "new elements required" in the Permit, to develop a procedure for streamlining regulatory agency approval of regional Treatment Control BMPs, to incorporate and require City development and significant redevelopment projects to incorporate LID principles, to revise City ordinances and design codes to promote LID techniques, to review City projects for HCOCs and to mitigate such HCOCs, to develop standard design and post-development BMP guidance for City street, road and highway projects, to develop criteria for determining the feasibility of implementing LID BMPs, and to maintain a database to track the operation and maintenance of structural post construction BMPs installed after adoption of the

Permit. I am informed and believe and therefore state that certain of the costs to implement these requirements was funded by the permittees, including the City, through the Implementation Agreement and that the City's calculated share of such costs in FY 2010-11 was \$2,697.69 and in FY 2011-12 was \$14,784.74. I am further informed and believe that the City incurred direct costs to implement these requirements but that the City cannot at this time quantify those costs.

g. Training Requirements: Section XV.C of the Permit required the permittees, including the City, to conduct formal training of their employees, including with respect to WQMP reviews and in CEQA requirements set forth in the Permit. I am informed and believe and therefore state, that the District conducted such training and that the cost of the training was shared by the permittees, including the City, through the Implementation Agreement. I am further informed and believe and therefore state that the City's calculated share of such costs was \$2,143.41 in FY 2010-11 and \$1,931.31 in FY 2011-12. I am further informed and believe that the City incurred direct costs to implement these requirements but that the City cannot at this time quantify those costs.

h. Program Management Assessment Requirements: Section XVII.A.3 of the Permit as well as Section IV.B of the Monitoring and Reporting Program, Appendix 3 to the Permit, require the permittees, including the City, to develop and submit a proposal for assessment of the Urban Runoff management program effectiveness using specific guidance, and then to implement that assessment, requiring the permittees, including the City, to develop mechanisms and databases to track, on an ongoing basis, additional information for each component of their Urban Runoff management program, such as, but not limited to, the IC/ID programs, inspection programs, new development programs, public education and training

programs, and programs for permittee facilities and activities required pursuant to the Permit. Further, the permittees, including the City, are required to annually analyze that information for inferences that can be obtained regarding program effectiveness, and describe related findings and recommendations in annual reports. I am informed and believe and therefore state, that the District prepared the program management assessment guidance and that the City incurred direct costs to implement the assessment with respect to the City's urban runoff programs. I am further informed and believe and therefore state that the City incurred direct costs of \$ 6,600 in FY 2010-11 to implement the program.

6. I am informed and believe that there are no dedicated state or federal 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. The City has access to funding obtained through County Service Area 152 ("CSA 152"), which funds obligations of the City under the Permit. In addition, the City uses funds collected from new developments annexed to the City for stormwater programs associated with those new developments pursuant to a NPDES Rate Schedule. I am informed and believe that this CSA 152 and NPDES Rate Schedule funding is not sufficient to cover all of the programs and activities set forth in this Declaration over the course of the Permit. I am not aware of any 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 further am informed and believe that the only other source to pay for these new programs and activities is the City's general fund.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed March 21, 2017, at Moreno Valley, California.

A handwritten signature in black ink, appearing to read 'A. R. Ansari', is written over a horizontal line.

Ahmad R. Ansari, P.E.

DECLARATION OF MICHAEL MORALES

CITY OF PERRIS

I, MICHAEL MORALES, hereby declare and state as follows:

1. I am Capital Improvements Project Manager for the City of Perris ("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, Santa Ana Region ("Santa Ana RWQCB"), Order No. R8-2010-0033 ("the Permit") as they apply to the City.

2. I have reviewed sections of the Permit as set forth herein and am familiar with those provisions. I have also reviewed pertinent sections of Order No. R8-2002-0011 ("2002 Permit"), which was issued by the Santa Ana RWQCB in 2002, and am familiar with those provisions.

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 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 do so to the matters set forth herein.

5. Based on my understanding of the Permit, and the requirements of the 2002 Permit, I believe that the Permit requires the permittees covered by it, including the City, to undertake the following new and/or upgraded activities not required by the 2002 Permit and which are unique to local government entities:

a. Local Implementation Plan Requirement: Section IV of the Permit, along with Section VIII.H, Section IX.C, Section XII.A.1 and Section XII.H, require the permittees,

including the City, to create a template Local Implementation Plan (“LIP”) for submission to the Santa Ana RWQCB’s Executive Officer and, after approval of that template, to develop individual LIPs which set forth in detail the specific elements of Section IV of the Permit. The tasks required include the creation of individual LIPs, with the identification of personnel, programs and other tasks, and also the review and periodic updating of those LIPs over the course of the Permit and continuing thereafter. I am informed and believe and therefore state that certain of these requirements, including development of the template LIP documents, was conducted by the Riverside County Flood Control and Water Conservation District (“District”) in part through funding provided by the City pursuant to its obligations under the Implementation Agreement (included in Section 7 of the Test Claim) entered into by the permittees. I am further informed and believe that in Fiscal Year (“FY”) 2010-11, the City’s calculated share of the cost to develop the template LIP documents was \$36.64 and that during FY 2011-12, the City’s calculated share of that cost was \$135.06. I am further informed and believe and therefore state that the City incurred additional estimated direct costs to implement the requirements of the Permit set forth above.

b. [Reserved]

c. Enhancement of Illicit Connections/Illegal Discharges Requirements With IDDE Program: Sections IX.D, IX.E. and IX.H of the Permit, along with Section III.E.3 of the Monitoring and Reporting Program, Appendix 3 to the Permit, requires that the permittees, including the City, develop and include a “pro-active” Illicit Discharge Detection and Elimination (“IDDE”) program as part of their illicit connections/illegal discharges program, and then to use that program to investigate and track potential illegal discharges. The permittees also are required to maintain a database, which must be annually updated and submitted with the

permittees' Annual Reports. I am informed and believe and therefore state that certain aspects of these requirements were funded by the permittees, including the City, through the Implementation Agreement and that the City's calculated share of the cost of those requirements in FY 2013-14 was \$938.52. I am further informed and believe that the City spent an additional \$2,380 in 2014-15 and \$1,252 in 2015-16 to address these requirements.

d. [Reserved]

e. Enhanced Facilities Requirements: Sections XI.D.1, XI.D.6, XI.D.7 and XI.E.6 of the Permit require the permittees, including the City, to identify facilities that transport, store or transfer pre-production plastic pellets and managed turf facilities to determine whether these facilities warranted additional inspections; to notify all mobile business concerning minimum source control and pollution prevention best management practices ("BMPs") that will be required of those businesses; to notify mobile businesses operating within their jurisdiction; to develop an enforcement strategy to address mobile businesses; and to evaluate the permittee's residential program in its Annual Report. I am informed and believe and therefore state that certain of these requirements were funded by the permittees, including the City, through the Implementation Agreement and that the City's calculated share of the cost of those requirements was \$78.12 in FY 2010-11. I am further informed and believe that the City subsequently spent additional monies in direct costs to address these requirements.

f. Enhanced New Development Requirements: Section XII of the Permit contains numerous requirements relating to new development and significant re-developments. These requirements include those to include new and revised programs for Low Impact Development ("LID") BMPs, BMPs to reduce erosion and mitigate hydromodification, to develop and

implement a comprehensive Watershed Action Plan ("WAP") to address urbanization impacts in the area covered by the Permit, to review and if required, amend each permittee's general plan and related documents, to eliminate barriers to implementation of LID principles and Hydrologic Conditions of Concern ("HCOC"), to revise and submit a revised Water Quality Management Plan ("WQMP") to address the "new elements required" in the Permit, to develop a procedure for streamlining regulatory agency approval of regional Treatment Control BMPs, to incorporate and require City development and significant redevelopment projects to incorporate LID principles, to revise City ordinances and design codes to promote LID techniques, to review City projects for HCOCs and to mitigate such HCOCs, to develop standard design and post-development BMP guidance for City street, road and highway projects, to develop criteria for determining the feasibility of implementing LID BMPs, and to maintain a database to track the operation and maintenance of structural post construction BMPs installed after adoption of the Permit. I am informed and believe and therefore state that certain of the costs to implement these requirements was funded by the permittees, including the City, through the Implementation Agreement and that the City's calculated share of such costs in FY 2010-11 was \$786.61 and in FY 2011-12 was \$4,323.43. I am further informed and believe that the City incurred direct costs of an estimated \$150 in FY 2010-11 and \$150 in FY 2011-12.

g. Training Requirements: Section XV.C of the Permit required the permittees, including the City, to conduct formal training of their employees, including with respect to WQMP reviews and in CEQA requirements set forth in the Permit. I am informed and believe and therefore state, that the District conducted such training and that the cost of the training was shared by the permittees, including the City, through the Implementation Agreement. I am

further informed and believe and therefore state that the City's calculated share of such costs was \$624.99 in FY 2010-11 and \$564.76 in FY 2011-12.

h. Program Management Assessment Requirements: Section XVII.A.3 of the Permit as well as Section IV.B of the Monitoring and Reporting Program, Appendix 3 to the Permit, require the permittees, including the City, to develop and submit a proposal for assessment of the Urban Runoff management program effectiveness using specific guidance, and then to implement that assessment, requiring the permittees, including the City, to develop mechanisms and databases to track, on an ongoing basis, additional information for each component of their Urban Runoff management program, such as, but not limited to, the IC/ID programs, inspection programs, new development programs, public education and training programs, and programs for permittee facilities and activities required pursuant to the Permit. Further, the permittees, including the City, are required to annually analyze that information for inferences that can be obtained regarding program effectiveness, and describe related findings and recommendations in annual reports. I am informed and believe and therefore state, that the District prepared the program management assessment guidance and that the City incurred direct costs to implement the assessment with respect to the City's urban runoff programs. I am further informed and believe and therefore state that the City incurred estimated direct costs of \$300 in FY2011-2012 and \$300 in FY 2013-14 to implement these requirements.

6. 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 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 further am informed and believe that the only available source to pay for these new programs and activities is the City's general fund.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed March 21, 2017, at Perris, California.

A handwritten signature in black ink, appearing to read "Michael Morales", written over a horizontal line.

Michael Morales

**DECLARATION OF DAN MUDROVICH
CITY OF SAN JACINTO**

I, Dan Mudrovich, hereby declare and state as follows:

1. I am Water Utilities Superintendent for the City of San Jacinto ("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, Santa Ana Region ("Santa Ana RWQCB"), Order No. R8-2010-0033 (the "Permit") as they apply to the City.

2. I have reviewed sections of the Permit as set forth herein and am familiar with those provisions. I have also reviewed pertinent sections of Order No. R8-2002-0011 ("2002 Permit"), which was issued by the Santa Ana RWQCB in 2002, and am familiar with those provisions.

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 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 do so to the matters set forth herein.

5. Based on my understanding of the Permit, and the requirements of the 2002 Permit, I believe that the Permit requires the permittees covered by it, including the City, to undertake the following new and/or upgraded activities not required by the 2002 Permit and which are unique to local government entities:

a. Local Implementation Plan Requirement: Section IV of the Permit, along with Section VIII.H, Section IX.C, Section XII.A.1 and Section XII.H, require the permittees,

including the City, to create a template Local Implementation Plan (“LIP”) for submission to the Santa Ana RWQCB’s Executive Officer and, after approval of that template, to develop individual LIPs which set forth in detail the specific elements of Section IV of the Permit. The tasks required include the creation of individual LIPs, with the identification of personnel, programs and other tasks, and also the review and periodic updating of those LIPs over the course of the Permit and continuing thereafter. I am informed and believe and therefore state that certain of these requirements, including development of the template LIP documents, was conducted by the Riverside County Flood Control and Water Conservation District (“District”) in part through funding provided by the City pursuant to its obligations under the Implementation Agreement (included in Section 7 of the Test Claim) entered into by the permittees. I am further informed and believe that in Fiscal Year (“FY”) 2010-11, the City’s calculated share of the cost to develop the template LIP documents was \$24.60 and that during FY 2011-12, the City’s calculated share of that cost was \$90.47. I am further informed and believe that the City incurred additional direct costs with respect to the implementation of these requirements but that the City cannot at this time quantify such costs.

b. [Reserved]

c. Enhancement of Illicit Connections/Illegal Discharges Requirements With IDDE

Program: Sections IX.D, IX.E. and IX.H of the Permit, along with Section III.E.3 of the Monitoring and Reporting Program, Appendix 3 to the Permit, requires that the permittees, including the City, develop and include a “pro-active” Illicit Discharge Detection and Elimination (“IDDE”) program as part of their illicit connections/illegal discharges program, and then to use that program to investigate and track potential illegal discharges. The permittees also are required to maintain a database, which must be annually updated and submitted with the

permittees' Annual Reports. I am informed and believe and therefore state that certain aspects of these requirements were funded by the permittees, including the City, through the Implementation Agreement and that the City's calculated share of the cost of those requirements in FY 2013-14 was \$599.15. I am further informed and believe that the City spent an additional estimated \$5,000 in FY 2010-11 and \$5,000 in FY 2011-12 in direct costs to address these requirements.

d. [Reserved]

e. Enhanced Facilities Requirements: Sections XI.D.1, XI.D.6, XI.D.7 and XI.E.6 of the Permit require the permittees, including the City, to identify facilities that transport, store or transfer pre-production plastic pellets and managed turf facilities to determine whether these facilities warranted additional inspections; to notify all mobile business concerning minimum source control and pollution prevention best management practices ("BMPs") that will be required of those businesses; to notify mobile businesses operating within their jurisdiction; to develop an enforcement strategy to address mobile businesses; and to evaluate the permittee's residential program in its Annual Report. I am informed and believe and therefore state that certain of these requirements were funded by the permittees, including the City, through the Implementation Agreement and that the City's calculated share of the cost of those requirements was \$52.46 in FY 2010-11. I am further informed and believe that the City spent an additional estimated \$15,000 in FY 2010-11 and \$15,000 in FY 2011-12 in direct costs to address these requirements.

f. Enhanced New Development Requirements: Section XII of the Permit contains numerous requirements relating to new development and significant re-developments. These requirements include those to include new and revised programs for Low Impact Development

("LID") BMPs, BMPs to reduce erosion and mitigate hydromodification, to develop and implement a comprehensive Watershed Action Plan ("WAP") to address urbanization impacts in the area covered by the Permit, to review and if required, amend each permittee's general plan and related documents, to eliminate barriers to implementation of LID principles and Hydrologic Conditions of Concern ("HCOC"), to revise and submit a revised Water Quality Management Plan ("WQMP") to address the "new elements required" in the Permit, to develop a procedure for streamlining regulatory agency approval of regional Treatment Control BMPs, to incorporate and require City development and significant redevelopment projects to incorporate LID principles, to revise City ordinances and design codes to promote LID techniques, to review City projects for HCOCs and to mitigate such HCOCs, to develop standard design and post-development BMP guidance for City street, road and highway projects, to develop criteria for determining the feasibility of implementing LID BMPs, and to maintain a database to track the operation and maintenance of structural post construction BMPs installed after adoption of the Permit. I am informed and believe and therefore state that certain of the costs to implement these requirements was funded by the permittees, including the City, through the Implementation Agreement and that the City's calculated share of such costs in FY 2010-11 was \$528.20 and in FY 2011-12 was \$2,896.22. I am further informed and believe that the City incurred estimated direct costs of \$15,000 in FY 2010-11 and \$15,000 in FY 2011-12 to implement these requirements as they applied to the City.

g. Training Requirements: Section XV.C of the Permit required the permittees, including the City, to conduct formal training of their employees, including with respect to WQMP reviews and in CEQA requirements set forth in the Permit. I am informed and believe and therefore state, that the District conducted such training and that the cost of the training was shared by the permittees, including the City, through the Implementation Agreement. I am

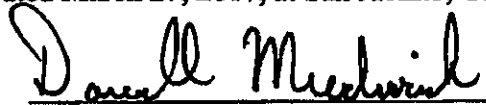
further informed and believe and therefore state that the City's calculated share of such costs was \$419.67 in FY 2010-11 and \$378.33 in FY 2011-12.

h. Program Management Assessment Requirements: Section XVII.A.3 of the Permit as well as Section IV.B of the Monitoring and Reporting Program, Appendix 3 to the Permit, require the permittees, including the City, to develop and submit a proposal for assessment of the Urban Runoff management program effectiveness using specific guidance, and then to implement that assessment, requiring the permittees, including the City, to develop mechanisms and databases to track, on an ongoing basis, additional information for each component of their Urban Runoff management program, such as, but not limited to, the IC/ID programs, inspection programs, new development programs, public education and training programs, and programs for permittee facilities and activities required pursuant to the Permit. Further, the permittees, including the City, are required to annually analyze that information for inferences that can be obtained regarding program effectiveness, and describe related findings and recommendations in annual reports. I am informed and believe and therefore state, that the District prepared the program management assessment guidance and that the City incurred direct costs to implement the assessment with respect to the City's urban runoff programs. I am further informed and believe that the City incurred additional direct costs with respect to the implementation of these requirements but that the City cannot at this time quantify such costs.

6. I am informed and believe that there are no dedicated state or federal 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. The City has access to funding obtained through County Service Area 152 ("CSA 152"), which fund, in part, the obligations of the City under the Permit. In addition, the City collects fees used for certain Permit activities from residents covered by Landscape and

Lighting Park Districts (“LLPD”). I am informed and believe that this CSA 152 and LLPD funding is not sufficient to cover all the programs and activities set forth in this Declaration over the course of the Permit. I am not aware of any 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 further am informed and believe that the only other source to pay for these new programs and activities is the City’s general fund.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed March 27, 2017, at San Jacinto, California.

A handwritten signature in black ink, reading "Dan Mudrovich", written over a horizontal line.

Dan Mudrovich

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On April 7, 2017, I served the:

Claimants' Response to the Notice of Incomplete Joint Test Claim Filing; Notice of Complete Joint Test Claim Filing, Removal From Inactive Status and Claimants' Rebuttal, Renaming of Matter, Request for Briefing, Request for Administrative Record, and Notice of Tentative Hearing Date; and Joint Test Claim

California Regional Water Quality Control Board, Santa Ana Region, Order No. R8-2010-0033, 10-TC-07

County of Riverside, Riverside County Flood Control and Water Conservation District, Cities of Beaumont, Corona, Hemet, Lake Elsinore, Moreno Valley, Perris, and San Jacinto, Co-Claimants

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on April 7, 2017 at Sacramento, California.



Jill L. Magee
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 4/7/17

Claim Number: 10-TC-07

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

Claimants: City of Beaumont
City of Corona
City of Hemet
City of Lake Elsinore
City of Moreno Valley
City of Perris
City of San Jacinto
County of Riverside
Riverside County Flood Control and Water Conservation District

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

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