

## ITEM 5

### PROPOSED STATEWIDE COST ESTIMATE

**\$238,301 - \$334,104**

**Initial Claim Period<sup>1</sup>**

(November 10, 2010 to December 31, 2017)

*California Regional Water Quality Control Board, San Diego Region,  
Order No. R9-2010-0016, Sections D.2., G.1.d., G.3.-5.,  
K.3.c.1.-4., and Attachment E., Section II.E.2.-5.*

11-TC-03

The Commission on State Mandates (Commission) adopted this Statewide Cost Estimate by a vote of [vote count will be included in the adopted Statewide Cost Estimate] during a regularly scheduled hearing on November 22, 2024 as follows:

Member	Vote
Lee Adams, County Supervisor	
Shannon Clark, Representative of the Director of the Office of Planning and Research	
Deborah Gallegos, Representative of the State Controller	
Karen Greene Ross, Public Member	
Renee Nash, School District Board Member	
William Pahland, Representative of the State Treasurer, Vice Chairperson	
Michele Perrault, Representative of the Director of the Department of Finance, Chairperson	

<sup>1</sup> The entire reimbursement period is within the initial claim period because the Commission found the mandate is not reimbursable beginning January 1, 2018 since the claimants have fee authority, sufficient as a matter of law, to pay for the reimbursable activities pursuant to Government Code section 17556(d).

## STAFF ANALYSIS

### Summary of the Mandate, Eligible Claimants, and Period of Reimbursement

This Statewide Cost Estimate addresses state-mandated activities arising from National Pollutant Discharge Elimination System (NPDES) Order No. R9-2010-0016, adopted by the San Diego Regional Water Quality Control Board on November 10, 2010.

The Commission adopted the Test Claim Decision on September 22, 2023, partially approving reimbursement for permittees that incur increased costs to perform the reimbursable activities under the mandate, and adopted the Decision and Parameters and Guidelines on January 26, 2024. The eligible claimants are County of Riverside (County) and the cities of Murrieta, Temecula, and Wildomar.<sup>2</sup> The other copermitttee, Riverside County Flood Control and Water Conservation District (District) was found to be ineligible to claim costs.<sup>3</sup>

The initial reimbursement period, which includes the entire reimbursement period, is November 10, 2010, through December 31, 2017 (eight months of fiscal year 2010-2011 through first half of fiscal year 2017-2018).<sup>4</sup> Eligible claimants were required to file initial claims with the State Controller's Office (Controller) by August 27, 2024. Late initial reimbursement claims may be filed until August 27, 2025, but will incur a 10 percent late filing penalty of the total amount of the initial claim without limitation.<sup>5</sup>

### Reimbursable Activities

The Commission approved the following reimbursable activities for this program:

A. SALs – Development and Submittal of Wet Weather MS4 Discharge Monitoring Program

1. Collaborate with all permittees to develop a year-round, watershed based, wet weather MS4 discharge monitoring program to sample a representative percentage of the major outfalls, as defined in 40 CFR 122.26(b)(5) and (b)(6) and Attachment E. of the test claim permit, within each hydrologic subarea. (Order No. R9-2010-0016, Section D.2.)
2. The principal copermitttee shall submit to the Regional Board for review and approval, a detailed draft of the wet weather MS4 discharge monitoring program to be implemented. (Order No. R9-2010-0016, Section D.2., which incorporates by reference Attachment E., Section II.B.3.)

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<sup>2</sup> Exhibit B, Decision and Parameters and Guidelines, adopted January 26, 2024, page 11.

<sup>3</sup> Exhibit A, Test Claim Decision, adopted September 22, 2023.

<sup>4</sup> Exhibit B, Decision and Parameters and Guidelines, adopted January 26, 2024, page 13.

<sup>5</sup> Government Code section 17561(d)(3).

## B. Watershed Workplan

1. The watershed BMP implementation strategy shall include a map of any implemented and proposed BMPs. (Order No. R9-2010-0016, Section G.1.d.)
2. The copermittees shall pursue efforts to obtain any interagency agreements, or other coordination efforts, with non-copermittee owners of the MS4 (such as Caltrans, Native American tribes, and school districts) to control the contribution of pollutants from one portion of the shared MS4 to another portion of the shared MS4. (Order No. R9-2010-0016, Section G.3.)
3. The watershed workplan must include the identification of the persons or entities anticipated to be involved during the development and implementation of the Watershed Workplan. (Order No. R9-2010-0016, Section G.4.)
4. The annual watershed review meetings shall be open to the public and adequately noticed. (Order No. R9-2010-0016, Section G.5.)
5. Each permittee shall review and modify jurisdictional programs and JRMP annual reports, as necessary, so they are consistent with the updated watershed workplan. (Order No. R9-2010-0016, Section G.5.)

## C. Annual JRMP Report

1. Include in the annual fiscal analysis a narrative description of circumstances resulting in a 25 percent or greater annual change for any budget line items. (Order No. R9-2010-0016, Section K.3.c.1.)
2. Provide in the annual report an updated timeframe for attainment of a desired outcome level in the annual report when an assessment indicates that the desired outcome level has not been achieved at the end of the projected timeframe, but the review of the existing activities and BMPs are adequate, or that the projected timeframe should be extended. (Order No. R9-2010-0016, Section K.3.c.2.)
3. *Except for reporting on the claimants' own municipal projects (which is not eligible for reimbursement),* provide the following information in the Checklist pursuant to Section K.3.c.3.:
  - a. Construction:
    - 1) Number of Active Sites
    - 2) Number of Inactive Sites
    - 3) Number of Sites Inspected
    - 4) Number of Violations
  - b. New Development:
    - 1) Number of Development Plan Reviews

- 2) Number of Projects Exempted from Interim/Final Hydromodification Requirements
- c. Post Construction Development:
  - 1) Number of Priority Development Projects
  - 2) Number of SUSMP Required Post-Construction BMP Inspections
  - 3) Number of SUSMP Required Post-Construction BMP Violations
  - 4) Number of SUSMP Required Post-Construction BMP Enforcement Actions Taken
- d. Illicit Discharges and Connections:
  - 1) Number of IC/ID Eliminations
  - 2) Number of IC/ID Violations
- e. MS4 Maintenance:
  - 1) Total Miles of MS4 Inspected
- f. Municipal/Commercial/Industrial:
  - 1) Number of Facilities
  - 2) Number of Violations (Order No. R9-2010-0016, Section K.3.c.3., Attachment D.)
4. *Except for reporting on the claimants' own municipal projects (which is not eligible for reimbursement), report the following information contained in Table 5 pursuant to Section K.3.c.4.:*
  - a. New Development:
    - 1) All revisions to the SSMP, including where applicable: (b) updated procedures for identifying pollutants of concern for each priority development project; (c) updated treatment BMP ranking matrix; (d) updated site design and treatment control BMP design standards. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. New Development 2.)
    - 2) Brief description of BMPs required at approved priority development projects. Verification that site design, source control, and treatment BMPs were required on all applicable priority development projects. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. New Development 3.)
    - 3) Name and location of all priority development projects that were granted a waiver from implementing LID BMPs pursuant to Section F.1.d.4. during the reporting period. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. New Development 4.)
    - 4) Updated watershed-based BMP maintenance tracking database of approved treatment control BMPs and treatment control BMP

maintenance within its jurisdiction, including updates to the list of high-priority priority development projects; and verification that the requirements of this Order were met during the reporting period. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. New Development 5.)

- 5) Name and brief description of all approved priority development projects required to implement hydrologic control measures in compliance with Section F.1.h. including a brief description of the management measures planned to protect downstream beneficial uses and prevent adverse physical changes to downstream stream channels. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. New Development 6.)

b. Construction:

- 1) A description of planned ordinance updates within the next annual reporting period, if applicable. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Construction 1.)
- 2) A description of any changes to procedures used for identifying priorities for inspecting sites and enforcing control measures that consider the nature of the construction activity, topography, and the characteristics of soils and receiving water quality. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Construction 2.)
- 3) Any changes to the designated minimum and enhanced BMPs. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Construction 3.)
- 4) Include the following information in the summary of the inspection program: (a) date of inspections conducted at each facility; (b) date of enforcement actions by facility; (c) brief description of the effectiveness of each high-level enforcement action at construction sites. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Construction 4.)
- 5) Supporting files must include a record of inspection dates, the results of each inspection, photographs (if any), and a summary of any enforcement actions taken. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Construction 4.)

c. Municipal (*other than a claimant's own development*):

- 1) Updated source inventory. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Municipal 1.)
- 2) All changes to the designated municipal BMPs. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Municipal 2.)
- 3) Descriptions of any changes to procedures to assure that flood management projects assess the impacts on the water quality of receiving water bodies. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Municipal 3.)

- 4) Summary and assessment of BMP retrofits implemented at flood control structures, including: (a) List of projects retrofitted; (b) List and description of structures evaluated for retrofitting; (c) List of structures still needing to be evaluated and the schedule for evaluation. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Municipal 4.)
  - 5) Include in the summary of the MS4 and MS4 facilities operations and maintenance activities, the (a) Number and types of facilities maintained. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Municipal 5.a.)
  - 6) Include (a) types of facilities and (b) summary of the inspection findings in the summary of the municipal structural treatment control operations and maintenance activities. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Municipal 5.)
  - 7) Include a list of facilities planned for bi-annual inspections and the justification in the summary of the MS4 and MS4 facilities operations and maintenance activities. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Municipal 6.c.)
  - 8) Include in the summary of the municipal areas/programs inspection activities: (a) date of inspections conducted at each facility; (b) The BMP violations identified during the inspection by facility; (c) date of enforcement actions by facility. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Municipal 7.a.-c.)
  - 9) Description of activities implemented to address sewage infiltration into the MS4. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Municipal 8.)
  - 10) Description of BMPs and their implementation for unpaved roads construction and maintenance. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Municipal 9.)
- d. Commercial/Industrial:
- 1) Updated inventory of commercial/industrial sources of discharges. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Commercial/Industrial 1.)
  - 2) Include the following information in the summary of the inspection program: (a) date of inspections conducted at each facility or mobile business; (b) The BMP violations identified during the inspection by facility; (c) date of enforcement actions by facility or mobile business; (d) brief description of the effectiveness each high-level enforcement actions at commercial/industrial sites including the follow-up activities for each facility. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Commercial/Industrial 2.)
  - 3) All changes to designated minimum and enhanced BMPs. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Commercial/Industrial 3.)

e. Residential:

- 1) All updated minimum BMPs required for residential areas and activities. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Residential 1.)
- 2) Description of efforts to manage runoff and storm water pollution in common interest areas and mobile home parks. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Residential 3.)

f. Retrofitting Existing Development:

- 1) Updated inventory and prioritization of existing development identified as candidates for retrofitting. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Retrofitting Existing Development 1.)
- 2) Description of efforts to retrofit existing developments during the reporting year. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Retrofitting Existing Development 2.)
- 3) Description of efforts taken to encourage private landowners to retrofit existing development. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Retrofitting Existing Development 3.)
- 4) A list of all retrofit projects that have been implemented, including site location, a description of the retrofit project, pollutants expected to be treated, and the tributary acreage of runoff that will be treated. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Retrofitting Existing Development 4.)
- 5) Any proposed retrofit or regional mitigation projects and time lines for future implementation. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Retrofitting Existing Development 5.)

g. Workplans:

- 1) Updated workplans including priorities, strategy, implementation schedule, and effectiveness evaluation. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Workplans)

D. Special Studies

1. Sediment Toxicity Study

- a. Develop and submit to the Regional Board by April 1, 2012, a workplan to investigate the toxicity of sediment in streams and its potential impact on benthic macroinvertebrate IBI scores. The study must be implemented in conjunction with the stream assessment monitoring in Attachment E. The study must include the following elements:
  - 1) At least four stream assessment locations must be sampled, including one reference site and one mass loading site. The selection of sites must be

done with consideration of subjectivity of receiving waters to discharges from residential and agricultural land uses.

- 2) At a minimum, sampling must occur once per year at each site for at least two years.
  - 3) At a minimum, sediment toxicity analysis must include the measurement of metals, pyrethroids, and organochlorine pesticides. The analysis must include estimates of bioavailability based upon sediment grain size, organic carbon, and receiving water temperature at the sampling site. Acute and chronic toxicity testing must be done using *Hyalella azteca*.
- b. Include the results and a discussion in the monitoring annual report including an assessment of the relationship between observed IBI scores and all variables measured. (Order No. R9-2010-0016, Attachment E, Section II.E.2.)

## 2. Trash and Litter Investigation

- a. Develop and submit to the Regional Board by September 1, 2012, a workplan to assess trash (including litter) as a pollutant within receiving waters on a watershed based scale. The copermittees must select a lead copermittee. The study must include the following elements:
  - 1) The lead copermittee must identify suitable sampling locations within the Santa Margarita HU.
  - 2) Trash at each location must be monitored a minimum of twice during the wet season following a qualified monitoring storm event<sup>6</sup> and twice during the dry season.
  - 3) The lead copermittee must use the "Final Monitoring Workplan for the Assessment of Trash in San Diego County Watersheds" and "A Rapid Trash Assessment Method Applied to Waters of the San Francisco Bay Region" to develop a monitoring protocol.
- b. Include the results and a discussion in the monitoring annual report and must, at a minimum, include source identification, an evaluation of BMPs for trash reduction and prevention, and a description of any BMPs implemented in response to study results. (Order No. R9-2010-0016, Attachment E, Section II.E.3.)

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<sup>6</sup> A qualified monitoring storm event is defined as a minimum of 0.1 inches of precipitation preceded by 72 hours of dry weather.



### 3. Agricultural, Federal and Tribal Input Study

- a. Develop and submit to the Regional Board by September 1, 2012, a workplan to investigate the water quality of agricultural, federal, and tribal runoff that is discharged into their MS4. The study must include the following elements:
  - 1) The copermitees must identify a representative number of sampling stations within their MS4 that receive discharges of agricultural, federal, and tribal runoff that has not co-mingled with any other source. At least one station from each category must be identified.
  - 2) One storm event must be monitored at each sampling location each year for at least two years.
  - 3) At a minimum, analysis must include those constituents listed in Table 1 of the MRP. Grab samples may be utilized, though composite samples are preferred. The copermitees must also measure or estimate flow rates and volumes of discharges into the MS4.
- b. Include the results and a discussion from the study in the monitoring annual report. (Order No. R9-2010-0016, Attachment E, Section II.E.4.)

### 4. MS4 and Receiving Water Maintenance Study

- a. Develop and submit to the Regional Board by April 1, 2012, a workplan to investigate receiving waters that are considered part of the MS4 and that are subject to continual vegetative clearance activities, for example, mowing. The copermitees must assess the effects of the vegetation removal activities and water quality, including, but not limited to, modification of biogeochemical functions, in-stream temperatures, receiving water bed and bank erosion potential, and sediment transport. The study must include the following elements:
  - 1) The copermitees must identify suitable sampling locations, including at least one reference that is not subject to maintenance activities.
  - 2) At a minimum, the copermitees must monitor pre- and post-maintenance activities for indicator bacteria, turbidity, temperature, dissolved oxygen and nutrients (nitrite, nitrate, total Kjeldahl nitrogen, ammonia and total phosphorous). The copermitees must also measure or estimate flow rates and volumes.
- b. Include the results and a discussion from the study in the annual monitoring report including the relevance of findings to CWA section 303(d) listed impaired waters. (Order No. R9-2010-0016, Attachment E, Section II.E.5.)

### **Offsetting Revenues and Reimbursements**

The Parameters and Guidelines specify any offsetting revenue the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition,

reimbursement for this mandate from any source, including but not limited to, state and federal funds, any service charge, fee, or assessment authority to offset all or part of the costs of this program, and any funds other than the claimant's proceeds of taxes shall be identified and deducted from any claim submitted for reimbursement.<sup>7</sup>

Offsetting revenues identified in the reimbursement claims totaled \$22,294 for fiscal years 2011-2012 through the first half of 2017-2018, which were identified by Murrietta and which represent 50 percent of the city's claimed costs per fiscal year. The source of the offsetting revenue was not identified in the claims.

### Statewide Cost Estimate

All activities except for Activities B.2., B.4., and C., are one-time activities or are short-term special studies that end within the first few years of the program. Therefore, all costs for Activities A.1., A.2., B.1., B.3., B.5., and D.1.-4. are expected to be claimed for the first few years of the reimbursement period only. Costs for Activities B.2., B.4., and C., however, are expected to be claimed for the entire reimbursement period ending December 31, 2017.

Moreover, Activity A.2. is performed only by the principal copermitttee, the District, which is not an eligible claimant. Therefore, no claimant can claim costs for A.2.

Staff reviewed 19 unaudited reimbursement claims as compiled by the Controller. Although claims were submitted by all four eligible claimants, no claimant filed for all fiscal years. Murrietta filed claims covering 2011-2012 through the first half of 2017-2018, the County filed claims from 2010-2011 through 2015-2016, Temecula filed claims from 2011-2012 through 2015-2016 and, Wildomar only filed for 2014-2015. Staff developed the Statewide Cost Estimate based on the assumptions and methodology discussed herein. Table 1 below summarizes the cost estimates for all fiscal years, eight months of 2010-2011 through first half of 2017-2018.

**Table 1. Reimbursement Period Cost Estimate**

A. Storm Water Action Levels (SALs)	
Activity A.1. Collaborate with all permittees to develop a year-round, watershed based, wet weather MS4 discharge monitoring program to sample a representative percentage of the major outfalls, as defined in 40 CFR 122.26(b)(5) and (b)(6) and Attachment E. of the test claim permit, within each hydrologic subarea. (Order No. R9-2010-0016, Section D.2.)	\$20,709 - \$30,221
Activity A.2. The principal copermitttee shall submit to the Regional Board for review and approval, a detailed draft of the wet weather MS4 discharge monitoring program to	\$0 - \$0

<sup>7</sup> Exhibit B, Decision and Parameters and Guidelines, adopted January 26, 2024, page 32.

be implemented. (Order No. R9-2010-0016, Section D.2., which incorporates by reference Attachment E., Section II.B.3.)	
<b>B. Watershed Workplan</b>	
Activity B.1. The watershed Best Management Practice (BMP) implementation strategy shall include a map of any implemented and proposed BMPs. (Order No. R9-2010-0016, Section G.1.d.)	\$13,135 - \$19,170
Activity B.2. The copermittees shall pursue efforts to obtain any interagency agreements, or other coordination efforts, with non-copermittee owners of the MS4 (such as Caltrans, Native American tribes, and school districts) to control the contribution of pollutants from one portion of the shared MS4 to another portion of the shared MS4. (Order No. R9-2010-0016, Section G.3.)	\$2,822 - \$4,123
Activity B.3. The watershed workplan must include the identification of the persons or entities anticipated to be involved during the development and implementation of the Watershed Workplan. (Order No. R9-2010-0016, Section G.4.)	\$0 - \$0
Activity B.4. The annual watershed review meetings shall be open to the public and adequately noticed. (Order No. R9-2010-0016, Section G.5.)	\$21,370 - \$31,188
Activity B.5. Each permittee shall review and modify jurisdictional programs and jurisdictional runoff management program (JRMP) annual reports, as necessary, so they are consistent with the updated watershed workplan. (Order No. R9-2010-0016, Section G.5.)	\$0 - \$0
<b>C. Annual JRMP Report</b>	
Activity C. The JRMP report must comply with the requirements of the Parameters and Guidelines (Ps and Gs) Section IV. Reimbursable Activities, Section C. Annual JRMP Report. <sup>8</sup>	\$30,007 - \$43,794
<b>D. Special Studies</b>	
D.1. Sediment Toxicity Study	
Activity D.1.a. Develop and submit to the Regional Board by April 1, 2012, a workplan to investigate the toxicity of	\$51,679 - \$75,420

<sup>8</sup> See Exhibit B, Decision and Parameters and Guidelines, adopted January 26, 2024, pages 24-28.

sediment in streams and its potential impact on benthic macroinvertebrate Index of Biotic Integrity (IBI) scores.	
Activity D.1.b. Include the results and a discussion in the monitoring annual report including an assessment of the relationship between observed IBI scores and all variables measured. (Order No. R9-2010-0016, Attachment E, Section II.E.2.)	\$10,657 - \$15,553
D.2. Trash and Litter Investigation	
Activity D.2.a. Develop and submit to the Regional Board by September 1, 2012, a workplan to assess trash (including litter) as a pollutant within receiving waters on a watershed based scale. The copermitees must select a lead copermitee.	\$39,268 - \$57,314
Activity D.2.b. Include the results and a discussion in the monitoring annual report and must, at a minimum, include source identification, an evaluation of BMPs for trash reduction and prevention, and a description of any BMPs implemented in response to study results. (Order No. R9-2010-0016, Attachment E, Section II.E.3.)	\$6,049 - \$8,829
D.3. Agricultural, Federal, and Tribal Input Study	
Activity D.3.a. Develop and submit to the Regional Board by September 1, 2012, a workplan to investigate the water quality of agricultural, federal, and tribal runoff that is discharged into their MS4.	\$45,562 - \$66,498
Activity D.3.b. Include the results and a discussion from the study in the monitoring annual report. (Order No. R9-2010-0016, Attachment E, Section II.E.4.)	\$11,351 - \$16,570
D.4. MS4 and Receiving Water Maintenance Study	
Activity D.4.a. Develop and submit to the Regional Board by April 1, 2012, a workplan to investigate receiving waters that are considered part of the MS4 and that are subject to continual vegetative clearance activities, for example, mowing.	\$7,072 - \$7,072
Activity D.4.b. Include the results and a discussion from the study in the annual monitoring report including the relevance of findings to Clean Water Act (CWA) section 303(d) listed impaired waters. (Order No. R9-2010-0016, Attachment E, Section II.E.5.)	\$0 - \$0
Indirect Costs	\$914 - \$1,503
Offsetting Revenue	\$22,294 - \$32,405
Late Filing Penalty	\$0 - \$10,746
<b>Total Costs</b>	<b>\$238,301 - \$334,104</b>

## Assumptions

1. The amount claimed for the period of reimbursement may be higher if late or amended claims are filed. All four eligible claimants filed claims for the reimbursement period but not all claimants filed for each of the seven and a half fiscal years (from 2010-2011 through first half of 2017-2018).<sup>9</sup> Murrietta filed seven claims, the County filed six claims, Temecula filed five claims, and Wildomar only filed one claim. This Statewide Cost Estimate is based on the claims filed and the claims which the eligible claimants could have filed but have not.

Only the County filed for the first fiscal year, 2010-2011, and claimed \$4,316, which was primarily composed of costs for the one-time activities. For purposes of this Statewide Cost Estimate, it is presumed that either no reimbursable costs were incurred by the cities during fiscal year 2010-2011, or that costs of less than \$1,000 were incurred, in which case a reimbursement claim cannot be filed.<sup>10</sup> Thus, the three cities are not likely to file late claims for fiscal year 2010-2011.

The eligible claimants may still file late claims for those years that were skipped and may also file late amended claims.

2. Activity A.2. requires the principal permittee to submit a draft plan to the Regional Board for approval. There are no reimbursable activities for any other claimant. The principal copermitttee, the District, is not an eligible claimant. Thus, the costs claimed by the County and Temecula for activity A.2. have not been included in this Statewide Cost Estimate.
3. The approved reporting requirements in Activity C. represent only the higher level of service activities that were mandated by the state when compared to prior law. Federal law and the prior permit previously required an annual report and several activities claimed were denied on this basis.<sup>11</sup> Therefore, costs to comply with Activity C. will be less than the total cost to prepare and submit the annual report.
4. No costs were filed for activities B.3., B.5., and D.4.b. which address the identification of the persons working on the Watershed Workplan, the review and modification of jurisdictional programs and JRMP annual reports, and reporting on the MS4 and Receiving Waters Maintenance special study, respectively. For purposes of this Statewide Cost Estimate, it is presumed that no costs were incurred for these activities, in which case the eligible claimants will not file amended or late claims on these activities.

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<sup>9</sup> Exhibit D (1), State Controller's Office, Claims Data, CRWQCB, San Diego Region, Order No. R9-2010-0016, Program 383, 11-TC-03.

<sup>10</sup> Government Code section 17564.

<sup>11</sup> Exhibit A, Test Claim Decision, adopted September 22, 2023, pages 277-281.

5. No costs were filed after fiscal year 2013-2014 for activity D.4.a. which addresses the development and submission of a workplan for the MS4 and Receiving Waters Maintenance special study. For purposes of this Statewide Cost Estimate, it is presumed that all costs for this activity have been claimed and eligible claimants will not file amended or late claims on this activity.
6. Costs may be lower if the Controller audits the claims and determines that other offsetting revenues (i.e., funds that are not the claimant's proceeds of taxes) were used by a claimant to pay for the reimbursement activities.
7. Indirect costs are low because overhead was only claimed at 10 percent by the County and was not claimed by the cities, some of which have contracted with third parties to perform the reimbursable activities.
8. Actual costs may be lower if the Controller reduces any reimbursement claim for this program following an audit deeming the claim to be excessive, unreasonable, or not eligible for reimbursement.

### Methodology

As explained below, the low-end statewide cost estimate represents the costs actually claimed. The high-end statewide cost estimate represents the costs actually claimed plus the costs that could be claimed in late claims.

Activity A.1. consists of collaborating with all permittees to develop a year-round, watershed based, wet weather MS4 discharge monitoring program as part of the Storm Water Actions Levels (SALs) program.

Activity A.1. actual costs claimed [\$20,709] / the number of fiscal years covered by filed claims [18.5] = average activity A.1. cost per claim [\$1,119]

Average activity A.1. cost per claim [\$1,119] x number of fiscal years covered by non-filed claims [8.5] = total estimated non-filed activity A.1. costs [\$9,512]

Activity A.1. actual costs claimed [\$20,709] + estimated non-filed activity A.1. costs that could be claimed in late claims [\$9,512] = Total potential activity A.1. costs [\$30,221]

Activity A.2. consists of only the principal copermitttee submitting to the Regional Board a detailed draft of the wet weather MS4 discharge monitoring program to be implemented as part of the Storm Water Actions Levels (SALs) program. Since the principal copermitttee, the Riverside County Flood Control and Water Conservation District, is not an eligible claimant, no costs may be claimed for this activity.

Activity B.1. consists of including a map of any implemented and proposed Best Management Practices (BMPs) in the watershed BMP implementation strategy as part of the Watershed Workplan.

Activity B.1. actual costs claimed [\$13,135] / the number of fiscal years covered by filed claims [18.5] = average activity B.1. cost per claim [\$710]

Average activity B.1. cost per claim [\$710] x number of fiscal years covered by non-filed claims [8.5] = total estimated non-filed activity B.1. costs [\$6,035]

Activity B.1. actual costs claimed [\$13,135] + estimated non-filed activity B.1. costs that could be claimed in late claims [\$6,035] = Total potential costs [\$19,170]

Activity B.2. consists of the copermitees pursuing efforts to obtain any interagency agreements, or other coordination efforts, with non-copermittee owners of the MS4 to control the contribution of pollutants as part of the Watershed Workplan.

Activity B.2. actual costs claimed [\$2,822] / the number of fiscal years covered by filed claims [18.5] = average activity B.2. cost per claim [\$153]

Average activity B.2. cost per claim [\$153] x number of fiscal years covered by non-filed claims [8.5] = total estimated non-filed activity B.2. costs [\$1,301]

Activity B.2. actual costs claimed [\$2,822] + estimated non-filed activity B.2. costs that could be claimed in late claims [\$1,301] = Total potential costs [\$4,123]

Activity B.3. consists of including in the Watershed Workplan the identification of the persons or entities anticipated to be involved during the development and implementation of the Workplan. No claimant claimed these costs and thus, no projection of future costs claimed is possible.

Activity B.4. consists of opening to the public and adequately noticing the annual watershed review meetings.

Activity B.4. actual costs claimed [\$21,370] / the number of fiscal years covered by filed claims [18.5] = average activity B.4. cost per claim [\$1,155]

Average activity B.4. cost per claim [\$1,155] x number of fiscal years covered by non-filed claims [8.5] = total estimated non-filed activity B.4. costs [\$9,818]

Activity B.4. actual costs claimed [\$21,370] + estimated non-filed activity B.4. costs that could be claimed in late claims [\$9,818] = Total potential costs [\$31,188]

Activity B.5. consists of each permittee reviewing and modifying its jurisdictional programs and jurisdictional runoff management program (JRMP) annual reports, as necessary, so they are consistent with the updated watershed workplan. No claimant claimed these costs and thus, no projection of future costs claimed is possible.

Activity C. consists of providing specific information in the annual JRMP report, the Checklist and Table 5.

Activity C. actual costs claimed [\$30,007] / the number of fiscal years covered by filed claims [18.5] = average activity C. cost per claim [\$1,622]

Average activity C. cost per claim [\$1,622] x number of fiscal years covered by non-filed claims [8.5] = total estimated non-filed activity C. costs [\$13,787]

Activity C. actual costs claimed [\$30,007] + estimated non-filed activity C. costs that could be claimed in late claims [\$13,787] = Total potential activity C. costs [\$43,794]

Activity D.1.a. consists of developing and submitting to the Regional Board by April 1, 2012, and implementing a workplan to investigate the toxicity of sediment in streams as part of the Sediment Toxicity Study.

Activity D.1.a. actual costs claimed [\$51,679] / the number of fiscal years covered by filed claims [18.5] = average activity D.1.a. cost per claim [\$2,793]

Average activity D.1.a. cost per claim [\$2,793] x number of fiscal years covered by non-filed claims [8.5] = total estimated non-filed activity D.1.a. costs [\$23,741]

Activity D.1.a. actual costs claimed [\$51,679] + estimated non-filed activity D.1.a. costs that could be claimed in late claims [\$23,741] = Total potential costs [\$75,420]

Activity D.1.b. consists of including the results of the Sediment Toxicity Study and a discussion in the monitoring annual report.

Activity D.1.b. actual costs claimed [\$10,657] / the number of fiscal years covered by filed claims [18.5] = average activity D.1.b. cost per claim [\$576]

Average activity D.1.b. cost per claim [\$576] x number of fiscal years covered by non-filed claims [8.5] = total estimated non-filed activity D.1.b. costs [\$4,896]

Activity D.1.b. actual costs claimed [\$10,657] + estimated non-filed activity D.1.b. costs that could be claimed in late claims [\$4,896] = Total potential costs [\$15,553]

Activity D.2.a. consists of developing and submitting to the Regional Board by September 1, 2012, and implementing a workplan to assess trash as a pollutant within receiving waters as part of the Trash and Litter Investigation special study.

Activity D.2.a. actual costs claimed [\$39,268] / the number of fiscal years covered by filed claims [18.5] = average activity D.2.a. cost per claim [\$2,123]

Average activity D.2.a. cost per claim [\$2,123] x number of fiscal years covered by non-filed claims [8.5] = total estimated non-filed activity D.2.a. costs [\$18,046]

Activity D.2.a. actual costs claimed [\$39,268] + estimated non-filed activity D.2.a. costs that could be claimed in late claims [\$18,046] = Total potential costs [\$57,314]

Activity D.2.b. consists of including the results of the Trash and Litter Investigation special study and a discussion in the monitoring annual report.

Activity D.2.b. actual costs claimed [\$6,049] / the number of fiscal years covered by filed claim [18.5] = average activity D.2.b. cost per claim [\$327]



Average activity D.2.b. cost per claim [\$327] x number of fiscal years covered by non-filed claims [8.5] = total estimated non-filed activity D.2.b. costs [\$2,780]

Activity D.2.b. actual costs claimed [\$6,049] + estimated non-filed activity D.2.b. costs that could be claimed in late claims [\$2,780] = Total potential costs [\$8,829]

Activity D.3.a. consists of developing and submitting to the Regional Board by September 1, 2012, and implementing a workplan to investigate the water quality of agricultural, federal, and tribal runoff discharged into their MS4 as part of the Agricultural, Federal, and Tribal Input Study.

Activity D.3.a. actual costs claimed [\$45,562] / the number of fiscal years covered by filed claims [18.5] = average activity D.3.a. cost per claim [\$2,463]

Average activity D.3.a. cost per claim [\$2,463] x number of fiscal years covered by non-filed claims [8.5] = total estimated non-filed activity D.3.a. costs [\$20,936]

Activity D.3.a. actual costs claimed [\$45,562] + estimated non-filed activity D.3.a. costs that could be claimed in late claims [\$20,936] = Total potential costs [\$66,498]

Activity D.3.b. consists of including the results of the Agricultural, Federal, and Tribal Input Study and a discussion in the monitoring annual report.

Activity D.3.b. actual costs claimed [\$11,351] / the number of fiscal years covered by filed claims [18.5] = average activity D.3.b. cost per claim [\$614]

Average activity D.3.b. cost per claim [\$614] x number of fiscal years covered by non-filed claims [8.5] = total estimated non-filed activity D.3.b. costs [\$5,219]

Activity D.3.b. actual costs claimed [\$11,351] + estimated non-filed activity D.3.b. costs that could be claimed in late claims [\$5,219] = Total potential costs [\$16,570]

Activity D.4.a. consists of developing and submitting to the Regional Board by April 1, 2012, and implementing a workplan to investigate receiving waters subject to continual vegetative clearance activities as part of the MS4 and Receiving Waters Maintenance Study. No costs were claimed after fiscal year 2013-2014. All costs are presumed to have been claimed and future costs are projected at \$0. Accordingly, the high end remains the same as the low end of the range.

Activity D.4.b. consists of including the results of the MS4 and Receiving Water Maintenance Study and a discussion in the monitoring annual report. No claimant claimed these costs and thus, no projection of future costs claimed is possible.

**Indirect Costs:** The low end of the range for indirect costs is those indirect costs actually claimed. The high end, in addition to indirect costs actually claimed, assumes all eligible claimants who have not yet filed claims will file claims for indirect costs at the same average rate actually claimed, which is calculated by dividing indirect costs claimed by direct costs claimed equals average indirect cost rate (as a percentage). Then multiply the average indirect rate by the estimated direct costs.

Indirect Costs Actually Claimed [\$914] / Direct Costs Actually Claimed [\$259,681]  
= Average Indirect Cost Rate [0.4%].

Indirect Cost Rate [0.4%] x Estimated Direct Costs (sum of all estimated activity costs for the initial claim period) [\$375,752] = High End of the Estimated Indirect Costs [\$1,503].

**Offsetting Revenues:** The low end of the range is total offsetting revenues actually claimed. The high end assumes all eligible claimants will file claims, with offsetting revenues reported by all eligible claimants at the same average rate, and is calculated by dividing the offsetting revenue identified by the actual direct and indirect costs to get the offsetting revenue as a percentage of total costs claimed. Multiply the rate by the estimated direct and indirect costs not claimed. Then add the estimated offsetting revenue for non-filing claimants to the offsetting revenue actually claimed.

Actual Offsetting Revenues [\$22,294] / Actual Direct and Indirect Costs [\$260,595] = Offsetting Rate (offsetting revenues as a percentage of total costs claimed) [8.6%].

Estimated Non-filed Direct and Indirect Costs [\$117,574] x Offsetting Rate [8.6%]  
= Non-filed Offsetting Revenues [\$10,111].

Actual Offsetting Revenues [\$22,294] + Non-filed Offsetting Revenues [\$10,111] = High End of Estimated Offsetting Revenues [\$32,405]

**Late Filing Penalties:** The low end is \$0 because none of the initial claims compiled by the Controller were assessed a late filing penalty. The high end assumes all eligible claimants will file claims for the initial period of reimbursement, which will be subject to a late filing penalty. The costs for potential late claims are estimated by adding estimated non-filed direct and indirect costs and subtracting offsets to get net costs. Finally, the net costs are multiplied by a ten percent late filing penalty to estimate the high-end late filing penalties.

Estimated Non-filed Direct and Indirect Costs [\$117,574] – Estimated Non-filed Offsets [\$10,111] = Estimated Non-filed Net Costs [\$107,463].

Estimated Non-filed Net Costs [\$107,463] x (10% late filing penalty) = Estimated Non-filed Late Filing Penalties [\$10,746].

Actual Late Filing Penalties [\$0] + Estimated Non-filed Late Filing Penalties [\$10,746] = High End of Estimated Late Filing Penalties [\$10,746].

### **Draft Proposed Statewide Cost Estimate**

On October 15, 2024, Commission staff issued the Draft Proposed Statewide Cost Estimate.<sup>12</sup> No comments were filed on the Draft Proposed Statewide Cost Estimate.

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<sup>12</sup> Exhibit C, Draft Proposed Statewide Cost Estimate, issued October 15, 2024.

**Staff Recommendation**

Staff recommends the Commission adopt this Statewide Cost Estimate of \$238,301 - \$334,104 for the Initial Claim Period from November 10, 2010 through December 31, 2017.