

**COMMISSION ON STATE MANDATES**

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July 6, 2010

Mr. Timothy Barry  
County of San Diego  
Office of County Counsel  
1600 Pacific Highway, Room 355  
San Diego, CA 92101-2469

*And Interested Parties and Affected State Agencies (See Enclosed Mailing List)*

RE: **Proposed Parameters and Guidelines**

*Discharge of Stormwater Runoff, 07-TC-09*

California Regional Water Quality Control Board, San Diego Region,  
Order No. R9-2007-001, (NPDES No. CAS0108758)

Waste Discharge Requirements for Discharges of Urban Runoff from the  
Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the  
County of San Diego, the Incorporated Cities of San Diego County,  
Adopted on January 24, 2007

Dear Mr. Barry:

The Commission on State Mandates received the proposed parameters and guidelines on June 28, 2010. Staff reviewed the proposal and deemed it to be complete and timely filed.

**Review and Comments.** All state agencies and interested parties in receipt of this letter are invited to comment on the proposed parameters and guidelines. Recommendations and comments must be submitted to the Commission by **August 5, 2010**. The claimant and interested parties may file rebuttals with the Commission by **September 6, 2010**.

The claimant, state agencies, and interested parties are required to submit an original and two (2) copies of written responses or rebuttals to the Commission and to simultaneously serve copies on the test claimant, state agencies, and interested parties on the mailing list.

**Hearing.** If requested, Commission staff will conduct a prehearing conference. A hearing on this matter will be set when the record closes.

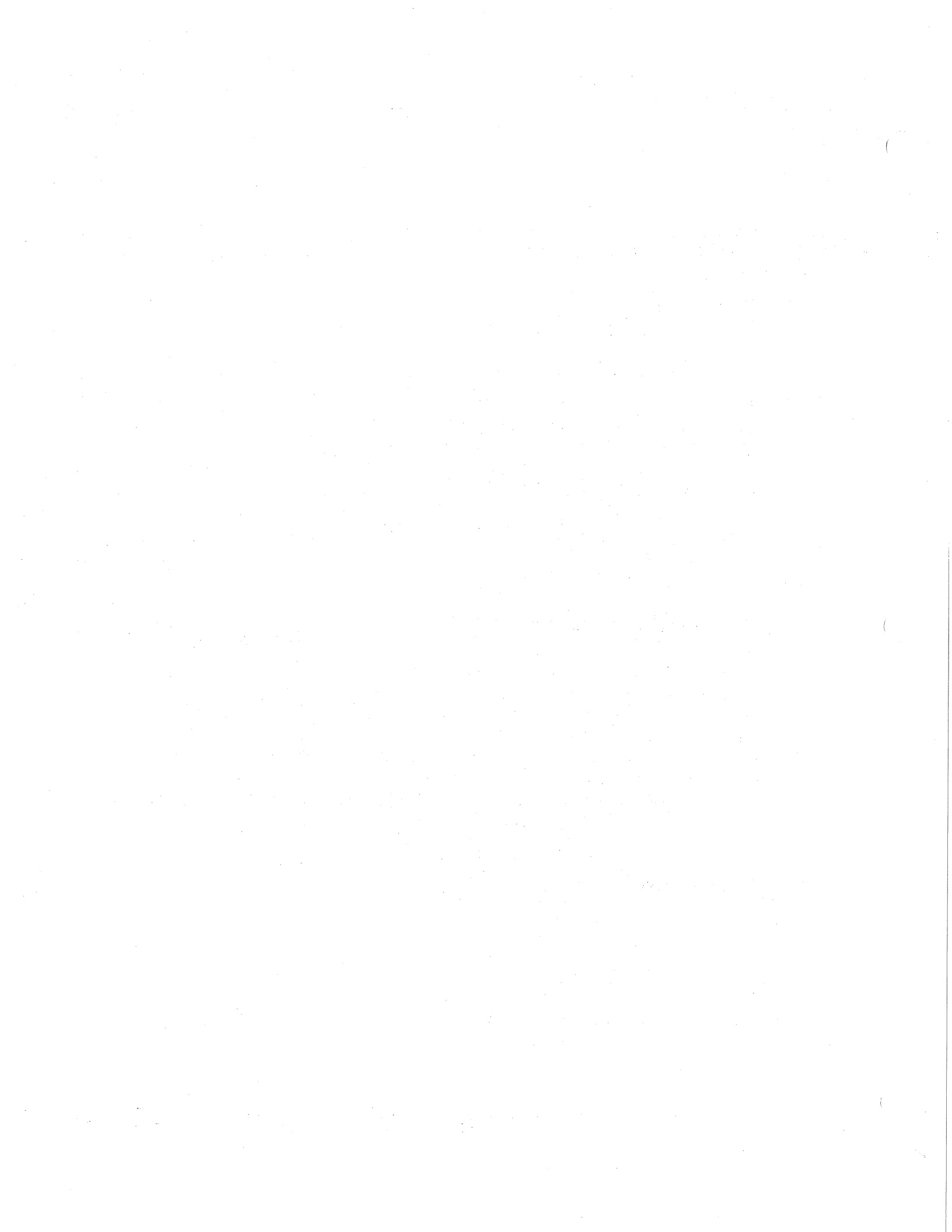
Please contact Heidi Palchik at (916) 323-8218 if you have any questions.

Sincerely,

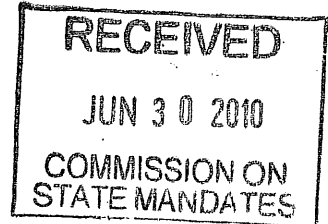
A handwritten signature in black ink that reads "Nancy Patton".

NANCY PATTON  
Assistant Executive Director

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BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA



IN RE TEST CLAIM ON:

San Diego Regional Quality Control Board  
Order No. R9-2007-0001  
Permit CAS0108758  
Parts D.1.d.(7)-(8), D.1.g., D.3.a.(3),  
D.3.a.(5), D.5, E.2.f, E.2.g, F.1, F.2, F.3,  
I.1, I.2, I.5, J.3.a.(3)(c)iv-viii & x-xv, and  
L.

Filed June 20, 2008, by the County of San  
Diego, Cities of Carlsbad, Del Mar,  
Imperial Beach, Lemon Grove, Poway, San  
Marcos, Santee, Solana Beach, Chula  
Vista, Coronado, Del Mar, El Cajon,  
Encinitas, Escondido, Imperial Beach, La  
Mesa, Lemon Grove, National City,  
Oceanside, San Diego, and Vista,  
Claimants.

Case No.: 07-TC-09

*Discharge of Stormwater Runoff*

PROPOSED PARAMETERS AND  
GUIDELINES PURSUANT TO  
GOVERNMENT CODE SECTION 17557  
AND TITLE 2, CALIFORNIA CODE OF  
REGULATIONS, SECTION 1183.12

## Parameters and Guidelines

San Diego Regional Quality Control Board  
Order No. R9-2007-0001, Permit CAS0108758  
Parts D.1.d.(7)-(8), D.1.g., D.3.a.(3), D.3.a.(5), D.5, E.2.f, E.2.g,  
F.1, F.2, F.3, I.1, I.2, I.5, J.3.a.(3)(c)iv-viii & x-xv, and L.

### *Discharge of Stormwater Runoff*

#### I. SUMMARY OF THE MANDATE

On March 26, 2010, the Commission on State Mandates ("Commission") adopted its Statement of Decision that San Diego Regional Quality Control Board Order No. R9-2007-0001, Permit CAS108758 (the "Permit") imposes reimbursable state-mandated programs and activities upon the Co-permittees<sup>1</sup> under the Permit within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 to perform the following activities:

##### A. Jurisdictional Urban Runoff Management Program and Reporting (parts D & J)

###### Street Sweeping (part D.3.a.(5)) - Sweeping of Municipal Areas:

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

- (a) Roads, streets, highways, and parking facilities identified as consistently generating the highest volumes of trash and/or debris shall be swept at least two times per month.
- (b) Roads, streets, highways, and parking facilities identified as consistently generating moderate volumes of trash and/or debris shall be swept at least monthly.
- (c) Roads, streets, highways, and parking facilities identified as generating low volumes of trash and/or debris shall be swept as necessary, but no less than once per year.

###### Street Sweeping Reporting (part J.3.a.(3)(c)x-xv):

Report annually on the following:

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<sup>1</sup> Co-permittees under the Permit include the County of San Diego, the San Diego Unified Port District, the San Diego County Regional Airport Authority and the cities of Carlsbad, Chula Vista, Coronado, Del Mar, El Cajon, Encinitas, Escondido, Imperial Beach, La Mesa, Lemon Grove, National City, Oceanside, Poway, San Diego, San Marcos, Santee, Solana Beach., and Vista.

x. Identification of the total distance of curb-miles of improved roads, streets, and highways identified as consistently generating the highest volumes of trash and/or debris, as well as the frequency of sweeping conducted for such roads, streets, and highways.

xi. Identification of the total distance of curb-miles of improved roads, streets, and highways identified as consistently generating moderate volumes of trash and/or debris, as well as the frequency of sweeping conducted for such roads, streets, and highways.

xii. Identification of the total distance of curb-miles of improved roads, streets, and highways identified as consistently generating low volumes of trash and/or debris, as well as the frequency of sweeping conducted for such roads, streets, and highways.

xiii. Identification of the total distance of curb-miles swept.

xiv. Identification of the number of municipal parking lots, the number of municipal parking lots swept, and the frequency of sweeping.

xv. Amount of material (tons) collected from street and parking lot sweeping.

**Conveyance System Cleaning (part D.3.a.(3)):**

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

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

....

iii. Any catch basin or storm drain inlet that has accumulated trash and debris greater than 33% of design capacity shall be cleaned in a timely manner. Any MS4 facility that is designed to be self cleaning shall be cleaned of any accumulated trash and debris immediately. Open channels shall be cleaned of observed anthropogenic litter in a timely manner.

**Conveyance System Cleaning - Reporting (part J.3.a.(3)(c)(iv)-(viii)):**

Update and revise the Copermittees' JURMPs to contain:

iv. Identification of the total number of catch basins and inlets, the number of catch basins and inlets inspected, the number of catch basins and inlets found with accumulated waste exceeding cleaning criteria, and the number of catch basins and inlets cleaned.

v. Identification of the total distance (miles) of the MS4, the distance of the MS4 inspected, the distance of the MS4 found with accumulated waste exceeding cleaning criteria, and the distance of the MS4 cleaned.

vi. Identification of the total distance (miles) of open channels, the distance of the open channels inspected, the distance of the open channels found with anthropogenic litter, and the distance of open channels cleaned.

vii. Amount of waste and litter (tons) removed from catch basins, inlets, the MS4, and open channels, by category.

viii. Identification of any MS4 facility found to require inspection less than annually following two years of inspection, including justification for the finding.

**Educational Component (part D.5):**

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

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

a. GENERAL REQUIREMENTS

(1) Each Copermittee shall educate each target community on the following topics where appropriate: (i) Erosion prevention, (ii) Non storm water discharge prohibitions, and (iii) BMP types: facility or activity specific, LID, source control, and treatment control.

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

b. SPECIFIC REQUIREMENTS

(1) Municipal Departments and Personnel Education

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

i. Federal, state, and local water quality laws and regulations applicable to Development Projects;

ii. The connection between land use decisions and short and long-term water quality impacts (i.e., impacts from land development and urbanization);

iii. How to integrate LID BMP requirements into the local regulatory program(s) and requirements; and

iv. Methods of minimizing impacts to receiving water quality resulting from development, including:

[1] Storm water management plan development and review;

[2] Methods to control downstream erosion impacts;

[3] Identification of pollutants of concern;

[4] LID BMP techniques;

[5] Source control BMPs; and

[6] Selection of the most effective treatment control BMPs for the pollutants of concern.

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

iii. Proper implementation of erosion and sediment control and other BMPs to minimize the impacts to receiving water quality resulting from construction activities.

iv. The Copermittee's inspection, plan review, and enforcement policies and procedures to verify consistent application.

v. Current advancements in BMP technologies.

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

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

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

(2) New Development and Construction Education

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

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

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

**B. Watershed Urban Runoff Management Program (parts E.2.f & E.2.g.)**

Each Copermittee shall collaborate with other Copermittees within its WMA(s) [Watershed Management Area] as in Table 4 [of the Permit] to develop and implement an updated Watershed Urban Runoff Management Program for each watershed. Each updated Watershed Urban Runoff Management Program shall meet the requirements of section E of the Order, reduce the discharge of pollutants from the MS4 to the MEP, and prevent urban runoff discharges from the MS4 from causing or contributing to a violation of water quality standards. At a minimum, each Watershed Urban Runoff Management Program shall include the elements described below: [¶]...[¶]



[Paragraphs (a) through (e) were not part of the test claim.]

f. Watershed Activities

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

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

(b) Watershed Education Activities are outreach and training activities that address high priority water quality problems in the WMA.

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

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

(a) A description of the activity;

(b) A time schedule for implementation of the activity, including key milestones;

(c) An identification of the specific responsibilities of Watershed Copermittees in completing the activity;

(d) A description of how the activity will address the identified high priority water quality problem(s) of the watershed;

(e) A description of how the activity is consistent with the collective watershed strategy;

(f) A description of the expected benefits of implementing the activity; and

(g) A description of how implementation effectiveness will be measured.

(4) Each Watershed Copermittee shall implement identified Watershed Activities pursuant to established schedules. For each Permit year, no less than two Watershed Water Quality Activities and two Watershed Education Activities shall be in an active implementation phase. A Watershed Water Quality Activity is in an active implementation phase when significant pollutant load reductions, source abatement, or other quantifiable benefits to discharge or receiving water quality can reasonably be established in relation to the watershed's high priority water quality problem(s). Watershed Water Quality Activities that are capital projects are in active implementation for the first year of implementation only. A Watershed Education Activity is in an active implementation phase when changes in attitudes, knowledge, awareness, or behavior can reasonably be established in target audiences.

g. Copermittee Collaboration

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

**C. Regional Urban Runoff Management Program (parts F.1, F.2 & F.3)**

Each Copermittee shall collaborate with the other Copermittees to develop, implement, and update as necessary a Regional Urban Runoff Management Program that meets the requirements of part F of the Permit, reduces the discharge of pollutants from the MS4 to the MEP, and prevents urban runoff discharges from the MS4 from causing or contributing to a violation of water quality standards. The Regional Urban Runoff Management Program shall, at a minimum:

1. Develop and implement a Regional Residential Education Program. The program shall include:

a. Pollutant specific education which focuses educational efforts on bacteria, nutrients, sediment, pesticides, and trash. If a different pollutant is determined to be more critical for the education program, the pollutant can be substituted for one of these pollutants.

b. Education efforts focused on the specific residential sources of the pollutants listed in section F.1.a.

2. Develop the standardized fiscal analysis method required in section G of the Permit, and,

3. Facilitate the assessment of the effectiveness of jurisdictional, watershed, and regional programs.

**D. Program Effectiveness Assessment (parts I.1 & I.2)**

**1. Jurisdictional**

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

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

(a) Each significant jurisdictional activity/BMP or type of jurisdictional activity/BMP implemented;

(b) Implementation of each major component of the Jurisdictional Urban Runoff Management Program (Development Planning, Construction, Municipal, Industrial/Commercial, Residential, Illicit Discharge<sup>2</sup> Detection and Elimination, and Education); and

(c) Implementation of the Jurisdictional Urban Runoff Management Program as a whole.

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

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

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<sup>2</sup> Illicit discharge, as defined in Attachment C of the Permit, is "any discharge to the MS4 that is not composed entirely of storm water except discharges pursuant to a NPDES permit and discharges resulting from firefighting activities [40 C.F.R. 122.26 (b)(2)]."

<sup>3</sup> Effectiveness assessment outcome levels are defined in Attachment C of the Permit as follows: Effectiveness assessment outcome level 1 – Compliance with Activity-based Permit Requirements – Level 1 outcomes are those directly related to the implementation of specific activities prescribed by the Order or established pursuant to it. Effectiveness assessment outcome level 2 – Changes in Attitudes, Knowledge, and Awareness – Level 2 outcomes are measured as increases in knowledge and awareness among target audiences such as residents, business, and municipal employees. Effectiveness assessment outcome level 3 – Behavioral Changes and BMP Implementation – Level 3 outcomes measure the effectiveness of activities in affecting behavioral change and BMP implementation. Effectiveness assessment outcome level 4 – Load Reductions – Level 4 outcomes measure load reductions which quantify changes in the amounts of pollutants associated with specific sources before and after a BMP or other control measure is employed. Effectiveness assessment outcome level 5 – Changes in Urban Runoff and Discharge Quality – Level 5 outcomes are measured as changes in one or more specific constituents or stressors in discharges into or from MS4s. Effectiveness assessment

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

(5) Utilize Implementation Assessment,<sup>4</sup> Water Quality Assessment,<sup>5</sup> and Integrated Assessment,<sup>6</sup> where applicable and feasible.

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

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

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outcome level 6 – Changes in Receiving Water Quality – Level 6 outcomes measure changes to receiving water quality resulting from discharges into and from MS4s, and may be expressed through a variety of means such as compliance with water quality objectives or other regulatory benchmarks, protection of biological integrity [i.e., ecosystem health], or beneficial use attainment.

<sup>4</sup> Implementation Assessment is defined in Attachment C of the Permit as an “Assessment conducted to determine the effectiveness of copermittee programs and activities in achieving measurable targeted outcomes, and in determining whether priority sources of water quality problems are being effectively addressed.”

<sup>5</sup> Water Quality Assessment is defined in Attachment C of the Permit as an “Assessment conducted to evaluate the condition of non-storm water discharges, and the water bodies which receive these discharges.”

<sup>6</sup> Integrated Assessment is defined in Attachment C of the Permit as an “Assessment to be conducted to evaluate whether program implementation is properly targeted to and resulting in the protection and improvement of water quality.”

2. Watershed

a. As part of its Watershed Urban Runoff Management Program, each watershed group of Copermittees (as identified in Table 4)<sup>7</sup> shall annually assess the effectiveness of its Watershed Urban Runoff Management Program implementation. At a minimum, the annual effectiveness assessment shall:

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

(a) Each Watershed Water Quality Activity implemented;

(b) Each Watershed Education Activity implemented; and

(c) Implementation of the Watershed Urban Runoff Management Program as a whole.

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

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

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

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

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

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

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<sup>7</sup> Table 4 of the Permit divides the copermittees into nine watershed management areas. For example, the San Luis Rey River watershed management area lists the city of Oceanside, Vista and the County of San Diego as the responsible watershed copermittees. Table 4 also lists where the hydrologic units are and major receiving water bodies.

b. Based on the results of the effectiveness assessment, the watershed Copermittees shall annually review their Watershed Water Quality Activities, Watershed Education Activities, and other aspects of the Watershed Urban Runoff Management Program to identify modifications and improvements needed to maximize Watershed Urban Runoff Management Program effectiveness, as necessary to achieve compliance with section A of the Order.<sup>8</sup> The Copermittees shall develop and implement a plan and schedule to address the identified modifications and improvements. Watershed Water Quality Activities/Watershed Education Activities that are ineffective or less effective than other comparable Watershed Water Quality Activities/Watershed Education Activities shall be replaced or improved upon by implementation of more effective Watershed Water Quality Activities/Watershed Education Activities. Where monitoring data exhibits persistent water quality problems that are caused or contributed to by MS4 discharges, Watershed Water Quality Activities and Watershed Education Activities applicable to the water quality problems shall be modified and improved to correct the water quality problems.

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

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**E. Long Term Effectiveness Assessment (part I.5)**

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

b. The LTEA shall be designed to address each of the objectives listed in section I.3.a.(6)<sup>9</sup> of this Order, and to serve as a

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<sup>8</sup> Section A is "Prohibitions and Receiving Water Limitations."

<sup>9</sup> Part I.3.a.(6) of the Permit states: At a minimum, the annual effectiveness assessment shall: (6) Include evaluation of whether the Copermittees' jurisdictional, watershed, and regional effectiveness assessments are meeting the following objectives: (a) Assessment of watershed health and identification of water quality issues and concerns. (b) Evaluation of the degree to which existing source management priorities are properly targeted to, and effective in addressing, water quality issues and concerns. (c) Evaluation

basis for the Copermittees' Report of Waste Discharge for the next permit cycle.

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

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

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

**F. All Copermittee Collaboration (part L)**

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

a. Jointly execute and submit to the Regional Board no later than 180 days after adoption of the Permit, a Memorandum of Understanding, Joint Powers Authority, or other instrument of formal agreement that at a minimum: [¶]...[¶]

(3) Establishes a management structure to promote consistency and develop and implement regional activities;

(4) Establishes standards for conducting meetings, decisions-making, and cost-sharing;

(5) Provides guidelines for committee and workgroup structure and responsibilities;

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of the need to address additional pollutant sources not already included in Copermittee programs. (d) Assessment of progress in implementing Copermittee programs and activities. (e) Assessment of the effectiveness of Copermittee activities in addressing priority constituents and sources. (f) Assessment of changes in discharge and receiving water quality. (g) Assessment of the relationship of program implementation to changes in pollutant loading, discharge quality, and receiving water quality. (h) Identification of changes necessary to improve Copermittee programs, activities, and effectiveness assessment methods and strategies.

(6) Lays out a process for addressing Copermitee non-compliance with the formal agreement.

## II. ELIGIBLE CLAIMANTS

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

## III. PERIOD OF REIMBURSEMENT

The term of the Permit is from January 24, 2007 – January 23, 2012.<sup>10</sup> The Permit terms and conditions are automatically continued, however, pending issuance of a new permit if all requirements of the federal NPDES regulations on the continuation of expired permits are complied with.<sup>11</sup>

Government Code section 17557, subdivision (e), provides that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for reimbursement for that fiscal year. The Co-permittees filed their Test Claim in this matter on June 20, 2008. Therefore the period of reimbursement began January 24, 2007.

Actual costs for one fiscal year shall be included in each claim. Estimated costs for the subsequent years may be included on the same claim, if applicable. Pursuant to Government Code section 17561, subdivision (d)(1)(A), all claims for reimbursement of initial year's costs shall be submitted to the Controller within 120 days of the issuance date for the claiming instructions.

If the total costs for a given year do not exceed \$1,000, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.

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<sup>10</sup> According to attachment B of the Permit: "*Effective Date*. This Order shall become effective on the date of its adoption provided the USEPA has no objection...." "(q) *Expiration*. This Order expires five years after adoption."

<sup>11</sup> According to attachment B of the Permit: "(r) *Continuation of Expired Order* [23 CCR 2235.4]. After this Order expires, the terms and conditions of this Order are automatically continued pending issuance of a new permit if all requirements of the federal NPDES regulations on the continuation of expired permits (40 CFR 122.6) are complied with."



#### IV. REIMBURSABLE ACTIVITIES

For each eligible claimant the following are costs incurred in performing the activities mandated by the Permit and are reimbursable:

##### Street Sweeping (part D.3.a.(5))

- Street Sweeping Operations. The claimant's Personnel Costs<sup>12</sup> to perform street sweeping.<sup>13</sup>
- Equipment. The actual cost of purchasing, renting, leasing, or contracting for equipment to perform street sweeping and related functions. This includes one-time costs for equipment purchases and corresponding equipment depreciation costs.
- Equipment Maintenance. Annual equipment maintenance costs, including parts, supplies (e.g., water), and Personnel Costs. This also includes the cost of operating, renting, leasing, or contracting for facilities to store and maintain equipment and supplies.
- Materials Disposal. The costs, including Personnel Costs, to dispose of material collected from street sweeping, including the removal of materials from street sweeping vehicles, and the transport, storage, and disposal of these materials. This includes the cost of operating, renting, leasing, or contracting for facilities to store or dispose of collected materials, and all applicable disposal fees or charges.
- Fuel. The actual cost of the fuel necessary to run the street sweeping equipment and equipment used to transport and dispose of collected materials.
- Program Development. The costs, including Personnel Costs, to develop and update the claimant's internal street sweeping program including specific criteria, policies, procedures, manuals, and forms. This includes the development and utilization of criteria to determine which roads, streets, highways, and parking facilities have high, moderate, and low volumes of trash and/or debris.<sup>14</sup> Program development tasks are generally one-time costs with annual reviews and periodic updates.

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<sup>12</sup> Unless otherwise stated in these Parameters and Guidelines, "Personnel Costs" will be determined using the claimant's loaded hourly rates; all other costs will be actual and will include only that part of the cost that is related to the reimbursable mandate. Some of the actual costs may be incurred through the use of vendors, contractors, consultants, or other service providers, and should be claimed as described in the last bullet point of this section.

<sup>13</sup> "Street sweeping" includes sweeping of improved roads, streets, highways, and parking facilities subject to the reimbursable mandate.

<sup>14</sup> Under the Permit the Copermitttees are individually responsible to define high, moderate, and low categories of trash generation, and to implement their sweeping activities accordingly within their jurisdictions.

- Employee and Vendor Training. The costs, including Personnel Costs, to develop, update, and conduct training on street sweeping policies, procedures, and documentation (manuals, forms, etc.). The costs include training of all claimant and vendor employees who perform tasks necessary to implement street sweeping and related functions during the life of the Permit.
- Parking Signage and Enforcement. The costs, including Personnel Costs, to purchase and install street sweeping signage and to enforce parking prohibitions in areas where street sweeping is scheduled. This includes the purchase, installation, or replacement of signage to inform the public of applicable parking restrictions, as well as their surveillance and enforcement.
- Employee Supervision and Management. Time spent by supervisory and management personnel supervising personnel directly responsible for performing the mandated activities. (Hereinafter referred to as "Employee Supervision and Management".)
- Contracted Services. Any of the costs described above may be incurred through the use of vendors, contractors, consultants, or other service providers. In such case, only actual costs to the claimant will be claimed, and will only include that portion of the cost that is related to the reimbursable mandate. Claimants may also include the costs of preparing requests for proposals or requests for bids, negotiating and drafting third party contracts, and subsequently administering service contracts for the time they are performing these tasks using the claimant's loaded hourly rates. (Hereinafter referred to as "Contracted Services".)

#### **Street Sweeping – Reporting (part J.3.a.(3)(c) x-xv)**

- Reporting and Tracking Policies and Procedures. The costs, including Personnel Costs, to develop, update, and implement street sweeping reporting and tracking policies and procedures.
- Data Tracking and Analysis. The costs, including Personnel Costs, to develop, update, and implement data tracking and analysis methods and procedures. This includes the cost of employees developing or maintaining data tracking methods or systems, and performing data tracking and analysis for reports to the Regional Water Quality Control Board. Also included are the costs of purchases and upgrades to equipment, hardware, and software necessary to support data tracking, analysis, and reporting in compliance with the Permit and subject to the reimbursable mandate.
- Report Writing. Personnel Costs to develop and write reports to the Regional Water Quality Control Board.
- Employee Supervision and Management.
- Contracted Services.

### Conveyance System Cleaning (D.3.a.(3))

- Conveyance System Inspection. The costs, including Personnel Costs, to inspect the conveyance system for the purposes of assessing the accumulation of trash, debris, or litter, or for verifying the proper operation of structural treatment controls.
- Conveyance System Cleaning Operations. The costs, including Personnel Costs, to clean any catch basin or storm drain inlet that has accumulated trash and debris greater than 33% of design capacity, to clean accumulated trash and debris from any MS4 facility that is designed to be self cleaning, or to clean open channels of observed anthropogenic litter.
- Vehicles and Equipment. The actual cost of purchasing, renting, leasing, or contracting for vehicles and equipment to perform conveyance system inspection or cleaning (including vector trucks and other cleaning equipment), and to transport and dispose of collected material. This includes one-time costs for equipment purchases and corresponding equipment depreciation costs.
- Vehicle and Equipment Maintenance. Annual maintenance costs, including parts, supplies (e.g., water), and Personnel Costs. This also includes the cost of operating, renting, leasing, or contracting for facilities to store and maintain vehicles, equipment, and supplies.
- Materials Disposal. The costs, including Personnel Costs, to dispose of material collected from Conveyance System Cleaning Operations. This also includes the removal of materials from vehicles and equipment, and the transport, storage, and disposal of these materials. This includes the cost of operating, renting, leasing, or contracting for facilities to store or dispose of collected materials; and all applicable disposal fees or charges.
- Fuel. The actual cost of the fuel necessary to run the vehicles and equipment, to inspect and clean MS4 facilities; and to transport and dispose of collected materials.
- Program Development. The costs, including Personnel Costs, to develop and update the claimant's internal conveyance system cleaning program including specific criteria, policies, procedures, manuals, and forms. This includes the development and utilization of inspection and maintenance schedules. Program development tasks are generally one-time costs with annual reviews and periodic updates.
- Employee and Vendor Training. The costs, including Personnel Costs, to develop, update, and conduct training on conveyance system inspection, cleaning, and disposal policies and practices. The costs include training of all claimant and vendor employees who perform tasks necessary to implement conveyance system cleaning and related functions during the life of the Permit.
- Parking Signage and Enforcement. The costs, including Personnel Costs, to purchase and install signage and to enforce parking prohibitions in areas where conveyance system cleaning is scheduled. This includes the purchase, installation, or replacement of signage to inform the public of

applicable parking restrictions, as well as their surveillance and enforcement.

- Employee Supervision and Management.
- Contracted Services.

#### **Conveyance System Cleaning – Reporting (J.3.a.(3)(c) iv-viii)**

- Reporting and Tracking Policies and Procedures. The costs, including Personnel Costs, to develop, update, and implement conveyance system inspection and cleaning reporting and tracking policies and procedures.
- Data Tracking and Analysis. The costs, including Personnel Costs, to develop, update, and implement data tracking and analysis methods and procedures. This includes the cost of employees to develop or maintain data tracking methods or systems, and to perform data tracking and analysis for reports to the Regional Water Quality Control Board. Also included are the costs of purchases and upgrades to equipment, hardware, and software necessary to support data tracking, analysis, and reporting in compliance with the Permit and subject to the reimbursable mandate.
- Report Writing. Personnel Costs, to develop and write reports to the Regional Water Quality Control Board.
- Employee Supervision and Management.
- Contracted Services.

#### **Educational Component (part D.5)<sup>15</sup>**

- Program Development. The costs, including Personnel Costs, to develop an educational program for the target communities. This includes preparation, collaboration, and development of the educational program, training, policy development, establishment of procedures, and updates to the same. While program development tasks are generally one-time costs, the Permit requires measurable increases in knowledge and measurable changes in behavior, which necessitate annual reviews and periodic updates to the program; therefore these costs are also included.
- Reporting and Tracking Policies and Procedures. The costs, including Personnel Costs, to develop, update, and implement reporting and tracking policies and procedures.
- Data Tracking and Analysis. The costs, including Personnel Costs, to implement and update data tracking and analysis methods and procedures. This includes the cost of maintaining data tracking methods or systems and performing data tracking and analysis for reports to the Regional Water Quality Control Board. Also included are the costs of purchases of

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<sup>15</sup> Specifically parts D.5.a.(1); D.5.a.(2); D.5.b.(1)(a)(i) and (ii) for planning boards and elected officials; D.5.b.(1)(a)(iii) - (iv) for all target audiences; D.5.b.(1)(b)(iii) - (vi); D.5.b.(1)(c) and (d); D.5.b.(2) for project applicants, contractors, or community planning groups who are not developers or construction site owners; and D.5.b.(3);

and upgrades to equipment, hardware and software necessary to support data tracking, analysis and reporting of the reimbursable mandate in compliance with the Permit.

- Educational Materials. The costs, including Personnel Costs, to develop, produce and distribute educational materials and related reporting to document the efforts.
- Employee and Vendor Annual Training. The costs, including Personnel Costs, to develop, update, and conduct training of staff responsible for providing education to target communities. The costs include training of all claimant and vendor employees who perform tasks necessary to implement educational functions during the life of the Permit.
- Education of Target Audiences. The costs, including Personnel Costs, to implement and conduct educational programs for the target communities.
- Report Writing. Personnel Costs, to develop and write reports to the Regional Water Quality Control Board.
- Employee Supervision and Management.
- Contracted Services.

#### Watershed Urban Runoff Management Program (parts E.2.f and E.2.g)

- Working Body Support and Representation. The costs, including Personnel Costs, to organize and administer the Watershed Urban Runoff Management Program ("WURMP") Working Bodies.<sup>16</sup> This includes all costs incurred 1) to perform the responsibilities of chairs,<sup>17</sup> co-chairs, and secretaries<sup>18</sup>, 2) attend and participate at meetings (including preparation and travel time), and 3) other activities required for planning, discussion, and coordination such as telephone calls, emails, and video conferencing. Required tasks typically also include, but

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<sup>16</sup> Permit Part E.2.g requires the collaborative development and implementation of a WURMP for each of the following Watershed Management Areas ("WMAs"): 1) Santa Margarita River; 2) San Luis Rey River; 3) San Dieguito River; 4) Penasquitos; 5) Mission Bay; 6) San Diego River; 7) San Diego Bay, and: 8) Tijuana River.

<sup>17</sup> MOU Section I defines a Chair as follows: "Chair means presiding over and providing leadership and direction to a Working Body. This includes serving as a point of contact to external entities such as Regional Board staff, stakeholders, and industry groups, soliciting group input on and developing meeting content, facilitating meetings, and coordinating with the Secretary or Working Body Support staff to finalize work products for distribution to the Working Body. Chair responsibilities may also be divided between Co-Chairs."

<sup>18</sup> MOU Section I defines a Secretary as follows: "Secretary means a person who takes responsibility for the records, correspondence, minutes or notes of meetings, and related affairs of a Working Body. This includes: maintaining group contact lists; preparing and sending out meeting notifications and agendas; arranging for meeting rooms and equipment; taking, preparing, and finalizing meeting minutes or notes; and, coordinating with the Chair or Working Body Support staff to organize and distribute work products to the Working Body."

are not limited to: 1) developing and distributing meeting agendas and notes, and 2) distributing, presenting, reviewing, and approving any of the Watershed Work Products described below.

- Collaborative Watershed Work Product Development. The costs, including Personnel Costs, to develop and update WURMP Work Products. This includes, but is not limited to, the following:
  - Watershed Urban Runoff Management Programs (“WURMPs”). A WURMP that includes all of the elements described in Permit Part E.2;
  - Watershed Activities Lists. Any Watershed Water Quality Activity<sup>19</sup> or Watershed Education Activity<sup>20</sup> necessary to meet the requirements of Permit Part E.2.f.(2), to include any or all of the minimum information identified in Permit Part E.2.f.(3);
  - Annual WURMP Work Plans and Budgets. Any Work Plan or Budget developed to support the implementation of a WURMP;
  - WURMP Annual Reports. Both the annual report content provided by individual Watershed Copermittees and the completion of the consolidated WURMP Annual Report;
  - Watershed-Specific Standards. 1) Watershed reporting, assessment, and program data and information management standards; and 2) standards and approaches for watershed-level management of specific source categories or types. It applies to work products developed by individual Copermittees, their consolidation into comprehensive, watershed standards documents, and periodic updates as necessary for each;
  - Working Body Status Reports. Watershed Working Body status reports developed for dissemination to Copermittees and interested parties. Status reports typically describe Watershed Working Body activities and accomplishments, success in completing scheduled tasks, and key issues, activities, and tasks to be addressed; and
  - Other Watershed Work Products. Any Watershed Working Body Work Product not specifically identified above, but required to achieve or maintain compliance with Permit Part E.2.
  
- Watershed Implementation of Programs and Activities. The costs, including Personnel Costs, for the ongoing implementation of programs and activities funded and/or conducted at the watershed level. Watershed programs and activities include, but are not limited to:
  - Watershed Water Quality Activities
  - Watershed Education Activities
  - Other programs and activities required to implement the WURMP

<sup>19</sup> Activities other than education that address high priority water quality problems in the WMA.

<sup>20</sup> Outreach and training activities that address high priority water quality problems in the WMA.

As applicable implementation costs associated with these programs and activities may include, but are not limited to:

- Materials production and distribution, equipment, supplies, fees, media purchases, and other costs associated with program implementation.
- Equipment. The actual cost of purchasing, renting, leasing, or contracting for vehicles and equipment to perform watershed activities mandated by the Permit. This includes one-time costs for vehicle and equipment purchases and corresponding equipment depreciation costs.
- Vehicle and Equipment Maintenance. Annual vehicle and equipment maintenance costs, including parts, supplies (e.g., water), and Personnel Costs. This also includes the cost of operating, renting, leasing, or contracting for facilities to store and maintain the vehicles and/or equipment and supplies.
- Fuel. The actual cost of the fuel for the vehicles and equipment performing watershed activities mandated by the Permit.
  
- Reporting and Tracking Policies and Procedures. The cost, including Personnel Costs, to develop, update, and implement each WMA activity and tracking policies and procedures.
- Data Tracking and Analysis. The cost, including Personnel Costs, to develop, update, and implement data tracking and analysis methods and procedures for reports to the Regional Water Quality Control Board. Also included are the costs of purchases and upgrades to equipment, hardware, and software necessary to support data tracking, analysis, and reporting in compliance with the Permit and subject to the reimbursable mandate.
- Report Writing. Personnel Costs to develop and write reports to the Regional Water Quality Control Board.
- Employee and Vendor Annual Training. The costs, including Personnel Costs, to develop, update, and conduct training of staff responsible for developing or conducting WMA activities. The costs include training of all claimant and vendor employees who perform tasks necessary to implement these functions during the life of the Permit.
- Cost Accounting and Documentation. The costs, including Personnel Costs, to monitor and conduct cost accounting for all expenditures incurred in accordance with WURMP development and implementation. This includes all costs associated with documenting and monitoring expenditures incurred (e.g., developing and distributing budget balance and expenditure reports, claim submittal forms, etc.). It also includes the individual Copermittee costs of developing or maintaining data tracking methods or systems, and of performing data tracking and analysis (including staff training), as well as the costs of purchases and upgrades to equipment, hardware, and software necessary to support expenditure tracking, analysis, and reporting.

- External Coordination. The costs, including Personnel Costs, to coordinate WURMP Working Body content, issues, programs, and activities with external organizations and parties. This includes, but is not limited to, coordination with Regional Board staff, participation at professional organizations and societies, and representation on applicable California Stormwater Quality Association (“CASQA”) working bodies.
- Employee Supervision and Management.
- Contracted Services.

**All Copermittee [Regional] Collaboration (part L), Regional Urban Runoff Management Program (parts F.1, F.2, and F.3), and, Long Term Effectiveness Assessment (I.5)<sup>21</sup>**

In general, part L requires the establishment of a regional management structure and the implementation of collaborative activities under that structure to “address common issues, promote consistency among Jurisdictional Urban Runoff Management Programs and Watershed Urban Runoff Management Programs, and to plan and coordinate [required] activities...” Part F requires Copermittee collaboration, but specifically focuses on the development, implementation, and updating of a Regional Urban Runoff Management Program (“RURMP”).<sup>22</sup> Part I.5 is similar to part F.3 in its requirement for collaboration on effectiveness assessment, but specifically requires the completion of a Long Term Effectiveness Assessment (“LTEA”) in the fifth year of Permit implementation.

In practice, parts L, F, and I.5 are all carried out through the same regional structure, i.e., a defined set of Working Bodies<sup>23</sup> with responsibilities corresponding to specific subject areas (e.g., Regional Management Committee, Municipal Sources Workgroup, or Fiscal, Reporting, and Assessment Workgroup). With limited exception<sup>24</sup>, all Copermittee collaboration and coordination is carried out through these Working Bodies. Working Body meetings typically address regional, jurisdictional, and

<sup>21</sup> The Long Term Effectiveness Assessment must be submitted to the Regional Board no later than 210 days prior to the expiration of the Permit. It is a one-time requirement.

<sup>22</sup> In particular parts F.1 through F.3 require 1) development and implementation of a Regional Residential Education Program, 2) development of a standardized fiscal analysis method, and 3) facilitation of the assessment of effectiveness of jurisdictional, watershed, and regional programs.

<sup>23</sup> MOU Section I defines Working Body as “... Committees, Subcommittees, Workgroups, Sub-workgroups, or any other group of Copermittees assembled to conduct work required by, for, or in furtherance of, compliance with the Permit.” The MOU also identifies specific Working Bodies and the general and specific responsibilities of each. MOU Section III.B.4.e also allows that the Copermittees’ Regional Management Committee may “[e]stablish or modify Working Bodies to review specific issues, make recommendations, or conduct work in support of shared regional priorities or objectives.”

<sup>24</sup> As Principal Permittee, the County of San Diego is also responsible to carry out the functions defined in part M (Principal Permittee Responsibilities). These functions are necessary to support the general mandates of parts F and L.



watershed issues or functions concurrently because a clear separation between them does not exist. The types of costs presented below therefore apply to parts L, F, and I.5.

- Regional Coordination of Copermittees and Regional Working Bodies. The costs, including Personnel Costs, to develop, distribute, review, and present work products necessary for regional planning, coordination, and collaboration amongst Copermittees and Regional Working Bodies. This includes written work products, presentations at meetings, and other means of coordination and review such as e-mail.
- Working Body Support and Representation.<sup>25</sup> The costs, including Personnel Costs, to organize and administer the Regional Working Bodies. This includes costs incurred 1) to perform the responsibilities of chairs, co-chairs, and secretaries, 2) attend and participate in meetings (including preparation and travel time), and 3) other activities required for planning, discussion, and coordination such as telephone calls, emails, and video conferencing. Required tasks typically also include, but are not limited to: 1) developing and distributing meeting agendas and notes, and 2) distributing, presenting, reviewing, and approving any of the Regional Work Products described below.
- Regional Work Product Development. The costs, including Personnel Costs, to develop and update any regional work product identified in an approved Regional Working Body Work Plan and Budget. This includes, but is not limited to, the following:
  - Working Body Status Reports. Regional Working Body status reports developed for dissemination to Copermittees and interested parties. Status reports typically describe Regional Working Body activities and accomplishments, success in completing scheduled tasks, and key issues, activities, and tasks to be addressed;
  - Annual Work Plans and Budgets. Both individual Regional Working Body Work Plans and Budgets and the Copermittees' Annual Regional Work Plan and Regional Shared Costs Budget;
  - Regional URMP Annual Reports. Both the annual report content provided by individual Regional Working Bodies and the completion of the consolidated Regional URMP Annual Report;
  - Regional Standards. 1) Regional reporting, assessment, and program data and information management standards; and 2) regional standards and approaches for the management of specific source categories or types. It applies to work products developed by individual Regional Working

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<sup>25</sup> MOU Section I defines Representation as "... serving as a Copermittee point of contact [for a Working Body], and, as applicable, receiving, reviewing, and providing input on correspondence, meeting materials, and work products." It also defines Participation as "regularly attending meetings, participating in the development, review, and finalization of work products, and carrying out the responsibilities of the Working Body." For the purposes of the MOU and these Parameters and Guidelines, Participants are considered to be a subset of Representatives.

Bodies, their consolidation into comprehensive, regional standards documents, and periodic updates as necessary for each; and

- Other Regional Work Products. Any Regional Working Body Work Product not specifically identified above, but required by the Permit or necessary to achieve or maintain Permit compliance. This includes, but is not limited to:

- A formal agreement between the Copermittees that provides a management structure for meeting the requirements of the Permit.<sup>26</sup>
- A Report of Waste Discharge.<sup>27</sup>
- By-laws for the conduct of Copermittee Working Bodies.
- A standardized method and format for annually conducting and reporting fiscal analyses of urban runoff management programs.<sup>28</sup>
- A Long Term Effectiveness Assessment (“LTEA”) that addresses at least the following: review and assessment of jurisdictional, watershed, and regional program effectiveness (including analysis of outcome levels 1-6); assessment of the effectiveness of the Receiving Waters Monitoring Program in meeting its ability to answer the five core management questions, and; evaluation of the relationship of program implementation to changes in water quality. This may also include shared or individual Copermittee costs of collaboratively developing assessment methods and approaches, developing or maintaining data tracking methods or systems, and of performing data collection, tracking, management, analysis, and reporting (including staff training), as well as purchases and upgrades to equipment, hardware, and software necessary to support these data management functions.

- Regional Implementation of Programs and Activities. The costs, including Personnel Costs, for the ongoing implementation of regionally-funded and/or conducted programs. Also included are materials production and distribution, equipment, supplies, fees, media purchases, and other costs associated with program implementation. Regional programs and activities include, but are not limited to:

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<sup>26</sup> An executed formal agreement must be submitted to the Regional Board no later than 180 days after adoption of the Permit. It is a one-time requirement that was initially satisfied through the July 24, 2007 amendment of the Copermittees’ Dec. 3, 2001 Memorandum of Understanding (“MOU”). A new MOU was executed on January 29, 2008 and amended in June 2010.

<sup>27</sup> A Report of Waste Discharge must be submitted to the Regional Board no later than 210 days prior to the expiration of the Permit. It is a one-time requirement.

<sup>28</sup> The standardized fiscal method must be submitted to the Regional Board by January 31, 2009. It is a one-time requirement.

- Education of Residential Target Audiences
  - Annual Regional Effectiveness Assessments
  - Other Programs and Activities Included as Part of the Regional URMP
- Cost Accounting and Documentation. The costs, including Personnel Costs, to monitor and conduct cost accounting for all expenditures incurred in accordance with Regional Working Body Work Plans and Budgets and the Copermittees' Annual Regional Work Plan and Regional Shared Costs Budget. This includes all costs associated with documenting and monitoring expenditures (e.g., developing and distributing budget balance and expenditure reports, claim submittal forms, etc.) incurred pursuant to approved Regional Working Body Work Plans and Budgets. It also includes the individual Copermittee costs of developing or maintaining data tracking methods or systems, and of performing data tracking and analysis (including staff training), as well as the costs of purchases and upgrades to equipment, hardware, and software necessary to support expenditure tracking, analysis, and reporting.
  - External Coordination. The costs, including Personnel Costs, to coordinate Regional Working Body content, issues, programs, and activities with external organizations and parties. This includes, but is not limited to, coordination with Regional Board staff, participation at professional organizations and societies, and representation on applicable California Stormwater Quality Association ("CASQA") working bodies.
  - Employee Supervision and Management.
  - Contracted Services.

#### **Program Effectiveness Assessment (I.1 and I.2)**

- Program Development. The costs, including Personnel Costs, to develop and annually update JURMP and WURMP effectiveness assessment methods, approaches, and documentation (e.g., policies, procedures, manuals and forms ), as well as data management systems and tools necessary to support the implementation of effectiveness assessments.
- Program Implementation. The costs, including Personnel Costs, to conduct the annual JURMP and WURMP effectiveness assessments in accordance with the Copermittee's effectiveness assessment program and the requirements of Parts I.1 and I.2 of the Permit. Also included are the costs of purchases and upgrades to equipment, hardware, and software necessary to support data tracking, analysis, and reporting.
- Employee and Vendor Annual Training. The costs, including Personnel Costs, to develop, update, and conduct training of staff responsible for developing or conducting effectiveness assessments. The costs include training of all claimant and vendor employees who perform tasks necessary to implement assessment functions during the life of the Permit.
- JURMP and WURMP Modifications. The costs, including Personnel Costs, to modify the JURMP and WURMP based upon the results of effectiveness assessments in accordance with the requirements of Parts I.1.b and I.2.b of the Permit. This includes the development and

implementation of plans and schedules to address the identified modifications and improvements.

- Report Writing. Personnel Costs, to develop and write reports required by Parts I.1.c and I.2.c of the Permit.
- Employee Supervision and Management.
- Contracted Services.

## V. CLAIM PREPARATION AND SUBMISSION

Each of the following cost elements must be identified for each reimbursable activity identified in Section IV, Reimbursable Activities, of this document. Each claimed reimbursable cost must be supported by source documentation as described in Section IV. Additionally, each reimbursement claim must be filed in a timely manner.

### A. Direct Cost Reporting

Direct costs are those costs incurred specifically for the reimbursable activities. The following direct costs are eligible for reimbursement.

#### 1. Salaries and Benefits

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

#### 2. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

#### 3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the services that were performed during the period covered by the reimbursement claim. If the contract services are also used for purposes other than the reimbursement activities, only the pro-rata portion of the services used to implement the reimbursable activities can be claimed. Submit contract consultant and attorney invoices with the claim and a description of the contract scope of services.

#### **4. Fixed Assets and Equipment**

Report the purchase price paid for fixed assets and equipment (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset or equipment is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

#### **5. Travel**

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination point, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element A.1, Salaries and Benefits, for each applicable reimbursable activity.

#### **6. Training**

Report the cost of training an employee to perform the reimbursable activities, as specified in Section IV of this document. Report the name and job classification of each employee preparing for, attending, and/or conducting training necessary to implement the reimbursable activities. Provide the title, subject, and purpose (related to the mandate of the training session), dates attended, and location. If the training encompasses subjects broader than the reimbursable activities, only the pro-rata portion can be claimed. Report employee training time for each applicable reimbursable activity according to the rules of cost element A.1, Salaries and Benefits, and A.2, Materials and Supplies. Report the cost of consultants who conduct the training according to the rules of cost element A.3, Contracted Services.

#### **B. Indirect Cost Rates**

Indirect costs are costs that are incurred for a common or joint purpose, benefiting more than one program, and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both (1) overhead costs of the unit performing the mandate; and (2) the costs of the central government services distributed to the other departments based on a systematic and rational basis through a cost allocation plan.

Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in the Office of Management and Budget ("OMB") Circular A-87. Claimants have the option of using 10% of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal ("ICRP") if the indirect cost rate claimed exceeds 10%.

If the claimant chooses to prepare an ICRP, both the direct costs (as defined and described in OMB Circular A-87 Attachments A and B) and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in OMB Circular A-87 Attachments A and B). However, unallowable costs must be included in the direct costs if they represent activities to which indirect costs are properly allocable.

The distribution base may be (1) total direct costs (excluding capital expenditures and other distorting items, such as pass-through funds, major subcontracts, etc.), (2) direct salaries and wages, or (3) another base which results in an equitable distribution.

In calculating an ICRP, the claimant shall have the choice of one of the following methodologies:

1. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by (1) classifying a department's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate which is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected; or

2. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by (1) separating a department into groups, such as divisions or sections, and then classifying the division's or section's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate that is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected.

## **VI. RECORD RETENTION**

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later.

However, if no funds are appropriated or no payments are made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

## **VII. OFFSETTING SAVING AND REIMBURSEMENTS**

Any offsetting savings 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, service fees collected, federal funds and other state funds shall be identified and deducted from this claim.

## **VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS**

Pursuant to Government Code section 17558, subdivision (b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the adopted parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The claiming instructions shall be derived from the test claim decision and the parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561, subdivision (d)(1), issuance of the claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

## **IX. REMEDIES BEFORE THE COMMISSION**

Upon request of a local agency or school district, the Commission shall review the claiming instructions issued by the State Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines adopted by the Commission, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557, subdivision (d), and California Code of Regulations, title 2, section 1183.2.

## **X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES**

The Statement of Decision is legally binding on all parties and provides the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record for the Test Claim. The administrative record, including the Statement of Decision, is on file with the Commission.

Discharge of Stormwater Runoff, 07-TC-09  
California Regional Water Quality Control Board, San Diego Region,  
Order No. R9-2007-001, (NPDES No. CAS0108758)

**PROOF OF SERVICE BY MAIL**  
(C.C.P. 1013a and 2015.5(b))

I, NANCY BELTRAN, declare:

I am over the age of eighteen years and not a party to the case; I am employed in, or am a resident of, the County of San Diego, California where the mailing occurs; and my business address is: 1600 Pacific Highway, Room 355, San Diego, California.

I further declare that I am readily familiar with the business practice for collection and processing of correspondence for mailing with the United States Postal Service; and that the correspondence shall be deposited with the United States Postal Service this same day in the ordinary course of business.

On June 25, 2010, I caused to be served the following document(s): **PROPOSED PARAMETERS AND GUIDELINES PURSUANT TO GOVERNMENT CODE SECTION 17557 AND TITLE 2, CALIFORNIA CODE OF REGULATIONS, SECTION 1183.12** by placing a true copy of each document in a separate envelope addressed to each addressee, respectively, as follows:

**SEE ATTACHED SERVICE LIST**

I then sealed placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with the business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

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

Executed on June 25, 2010, at San Diego, California.

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NANCY BELTRAN



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# Commission on State Mandates

Original List Date: 7/8/2008  
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Issue: California Water Quality Control Board San Diego Region

## Agenda Mailing List

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