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11
12 **BEFORE THE**
13 **CALIFORNIA STATE WATER RESOURCES CONTROL BOARD**
14

15 **In the Matter of Waste Discharge Require-**
16 **ments For Discharges from the Municipal**
17 **Separate Storm Sewer Systems (MS4s)**
18 **Draining the County of Riverside, the**
19 **Incorporated Cities of Riverside County,**
20 **and the Riverside County Flood Control**
21 **and Water Conservation District within the**
22 **San Diego Region, Order No. R9-2010-0016**
23 **NPDES NO. CAS0108740.**

PETITION FOR STATE BOARD
REVIEW OF REGIONAL BOARD
ACTION AND REQUEST FOR
HEARING THEREON, AND
REQUEST THAT MATTER BE
HELD IN ABEYANCE

24
25 **Introduction**
26

27 Marine Corps Base, Camp Pendleton (“Camp Pendleton”) requests the State Water Resources
28 Control Board (“State Board”) to review the California Regional Water Quality Control Board,
29 San Diego Region (Regional Board) adoption of the above captioned Waste Discharge
30 Requirements and National Pollutant Discharge Elimination System (NPDES) Permit contained
31 in Order No. R9-2010-0016, NPDES NO. CAS0108740 (hereinafter “ORDER R9-2010-0016”,
32 or the “Permit”). This Petition is filed pursuant to Water Code section 13320 and 23 California
33 Code of Regulations sections 2050 *et. seq.* The adopted Order mandates the interception of
34 surface water runoff upstream from Camp Pendleton, the interception and retention of which
35 could harm downstream beneficial uses. Additionally, the order could encroach upon, interfere
36 with, and harm the water rights held by Camp Pendleton. Camp Pendleton also requests that the
37 State Board hold this petition in abeyance pursuant to 23 California Code of Regulations section
38 2050.5(d) for a period of two years, during which time it is anticipated that additional data can be
39 collected regarding the impact of the Order’s on downstream beneficial uses and Camp
40 Pendleton’s water rights.

41
42 The adopted MS4 Permit has the potential to significantly reduce the amount of water that enters
43 the Santa Margarita River at and above the Temecula Gorge. Historic groundwater mining and

1 the presence of two upstream dams has dramatically changed the hydrograph in the Santa
2 Margarita watershed to the detriment of the critical water rights exercised in the interest of
3 national defense at Camp Pendleton. Because of extensive groundwater mining, a hydrologic
4 connection between the Temecula Basin aquifers and the mainstem Santa Margarita no longer
5 exists. Unlike the status quo, water which is infiltrated or reused in the upper basin in
6 accordance with ORDER R9-2010-0016 will stay in the Upper Basin--likely resulting in a net
7 loss of flows to the mainstem of the Santa Margarita River where native, riparian habitat, and
8 associated threatened and endangered species relies on the current hydrologic regime. The
9 presence of the dams exacerbates shortage to the "natural" hydrologic regime in Temecula and
10 Murrieta Creeks. For better or for worse, much of the shortage in surface waters that would
11 otherwise occur in the watershed has been significantly mitigated by the increase in impervious
12 surfaces in the Temecula Basin. While these impervious surfaces also serve to increase the
13 pollutant loadings that are transported downstream--which Camp Pendleton fully supports
14 controlling through treatment and natural infiltration--the increased rates of runoff appear to have
15 had the unintended benefit of keeping annual flows to the Santa Margarita River near historic
16 levels. Camp Pendleton supports pollutant reduction in upstream stormwater, but it cannot come
17 at the expense of losing critical flows that replenish its groundwater basins. A much simpler way
18 was proffered that would achieve a better balance had the Regional Board adopted a "Delta V"
19 approach to stormwater retention in the Upper Santa Margarita Basin. The "Delta V" approach
20 recommended to the Regional Board by Camp Pendleton and the Co-Permittees matched post
21 development hydrology with the existing hydrology at the site prior to development. The
22 Regional Board rejected the Delta V approach in favor of a single, or one size fits all, approach
23 to stormwater retention that would mandate artificial retention of stormwater in the Upper Santa
24 Margarita Basin. Camp Pendleton is reluctantly appealing the Regional Board's adoption of
25 ORDER No. R9-2010-0016 because of the Regional Board's decision to impose the
26 recommended 85th Percentile Storm Retention Standard, which Camp Pendleton believes could
27 cause harm to downstream beneficial uses.

28
29 Per Cal. Code Regs., tit. 23, § 2050.5, subd. (d), Camp Pendleton requests that this Petition be
30 held in abeyance until further notice. Camp Pendleton reserves the right to: (a) present a full
31 memorandum of points and authorities in support of this Petition, (b) request that the Regional
32 Board prepare the administrative record, (c) supplement the existing record with new
33 information introduced or utilized during technical review meetings with the Regional Board
34 staff and (d) request a hearing to present evidence available that was not considered by the
35 Regional Board or was improperly excluded or otherwise not considered.

36 Pursuant to 23 California Code of Regulations sections 2050, subsection (a), the specific
37 information required to be contained in this Petition is set forth as follows:
38

1 **1. Name, address, telephone number and email address (if available) of the**
2 **petitioner:**

3 (1) Petitioner: Marine Corps Base Camp Pendleton
4

5 (2) Address: Assistant Chief Of Staff, Facilities
6 Attn: Director, Office of Water Resources
7 Marine Corps Base
8 Box 555013
9 Camp Pendleton, CA 92055-5013
10 Ph: (760)725-1059
11 jeremy.jungreis@usmc.mil
12

13
14 Assistant Chief of Staff, Environmental Security
15 Attn: Environmental Compliance Department
16 Marine Corps Base
17 Box 555008
18 Camp Pendleton, CA 92055-5008
19 Ph: (760)725-3561
20 mark.bonsavage@usmc.mil
21

22 **2. The specific action or inaction of the Regional Board which the State Board is**
23 **requested to review and a copy of any order or resolution of the Regional Board**
24 **which is referred to in the petition, if available. If the order or resolution of the**
25 **Regional Board is not available, a statement shall be included giving the**
26 **reason(s) for not including the order or resolution:**
27

28 Camp Pendleton requests that the State Board review the Regional Board's adoption of the
29 captioned waste discharge requirement and NPDES Permit Order No. R9-2010-0016, NPDES
30 NO. CAS0108740 for the points of error identified in Paragraph 7 *infra*. The final approved
31 order, incorporating all errata, is not included herein because it was not yet published by the
32 Regional Board at the time of this petition's submission. A copy of the Order will be appended
33 to this petition at the time it is promulgated.
34

35 **3. The date on which the Regional Board acted or refused to act or on which the**
36 **Regional Board was requested to act:**
37

38 On November 10, 2010 in Temecula, California, the Regional Board adopted the subject Order
39 during a public hearing.
40

41 **4. A full and complete statement of the reasons the action or failure to act was**
42 **inappropriate or improper:**
43

1 See summary of reasons and associated Points and Authorities below in Paragraph 7, *infra*.

2
3 **5. The manner in which the petitioner is aggrieved:**

4
5 Camp Pendleton, the holder of downstream water rights and land manager of large portions of
6 the Santa Margarita riparian corridor is aggrieved by the 85th percentile storm retention standard
7 adopted on November 10 by the Regional Board. Under this standard, upstream surface water
8 runoff that would otherwise flow to Camp Pendleton will be intercepted and retained on site,
9 thereby having the potential to harm downstream beneficial uses and Petitioner's ability to fully
10 exercise its water rights. Although the Regional Board directed the Regional Board Staff to
11 include a permit provision for reviewing the Order's impact at six-month intervals, such a
12 reopener provision is no substitute for a full analysis of potential impacts required under the
13 protection afforded by the Wallop Amendment and other portions of the Clean Water Act.
14 Moreover, it places the burden of such review in large part on Petitioner, notwithstanding that it
15 is Camp Pendleton which will suffer injury should the impact of the permit prove to be more
16 than merely incidental.

17
18 **6. The specific action by the State or Regional Board which petitioner requests:**

19
20 Camp Pendleton requests the State Board review the order's surface water interception and
21 retention requirements, and the associated assignments of error listed in Paragraph 7, *infra*,
22 because these requirements pose a risk to both downstream beneficial uses and to the
23 downstream users' ability to fully exercise their rights to the waters of the Santa Margarita River
24 system. Camp Pendleton, the major downstream water rights holder, timely submitted
25 comments expressing its concerns, and again presented those concerns at the Regional Board
26 hearing. Camp Pendleton requests that the State Board direct the Regional Board to make the
27 changes to the language of the Permit identified below. The language requested below, which
28 was presented to the Board at the November 10 hearing would be more effective in accounting
29 for the system's unique hydrologic circumstances, and would implement more precautionary
30 approach to achieving the predevelopment hydrology while still accomplishing the Regional
31 Board's goals with regard to Low Impact Development (LID) pollutant removal:

32
33 (1) Revise Section F.1.d.(4) to read as follows:

34
35 (c) LID BMPs sizing criteria:

36
37 (i) For Priority Development Projects with a total area less than or
38 equal to 1 acre, LID BMPs must be sized and designed to ensure
39 onsite retention without runoff, of the volume of runoff produced
40 from a 24-hour 85th percentile storm event ("design capture
41 volume");

1 For Priority Development Projects greater than 1 acre, LID BMPs must
2 be sized and designed to ensure onsite retention without runoff of
3 the volume of runoff produced from a 24-hour 85th percentile storm
4 event that is in excess of the runoff that would otherwise occur from
5 the pre-development site. Conventional treatment control BMPs,
6 such as biofiltration or other natural treatment systems, must be
7 implemented to treat the remaining runoff from the site.
8

9 (ii) If onsite retention LID BMPs are technically infeasible per section
10 F.1.d.(7)(b), other LID BMPs may treat any volume that is not retained
11 onsite provided that the other LID BMPs are sized ~~to hold the design~~
12 ~~storm volume that is not infiltrated~~ to achieve equivalent storm water
13 ~~volume and pollutant load reduction as if the entire design capture~~
14 ~~volume were retained onsite.~~ The LID BMPs must be designed for an
15 appropriate surface loading rate to prevent erosion, scour and
16 channeling within the BMP.
17

18 (2) Revise F.1.d.(7) to read:
19

20 Technical infeasibility may result from conditions including, but not
21 limited to:

22 (i) Locations that cannot meet the infiltration and groundwater
23 protection requirements in section F.1.c.(6) for large, centralized
24 infiltration BMPs. Where infiltration is technically infeasible, the project
25 must still examine the feasibility of other onsite LID BMPs;

26 (ii) Insufficient demand for storm water outdoor reuse;

27 (iii) Smart growth and infill or redevelopment locations where the
28 density and/or nature of the project would create significant difficulty
29 for compliance with the LID BMP requirements; and

30 (iv) Other site, geologic, soil, or implementation constraints identified in
31 the Copermittees updated SSMP document.

32 (v) Reduction in site runoff that negatively impacts downstream water
33 availability.
34

35 (3) Revise Errata language in Section F.1.C.(8):
36

1 Rain water harvesting and outdoor water reuse, where feasible ~~must~~
2 may be encouraged as part ~~if~~ of the site design and construction to
3 reduce pollutants in storm water discharges to the MEP.

4
5 **7. A statement of points and authorities in support of legal issues raised in the**
6 **petition, including citations to documents or the transcript of the Regional Board**
7 **hearing where appropriate:**

8
9 1) Regional Board Abused its Discretion When it Disregarded Possible Implications of
10 Artificial Retention on Endangered Species:

11 Despite the Regional Board Staff acknowledging the 70 species of special concern (rare,
12 threatened, or endangered) that regularly inhabit the SMR watershed, including 30 currently
13 protected under the Federal ESA (*see* Fact Sheet/Technical Report for October 13, 2010
14 Order No. R9-2010-0016 at 16), the Regional Board Staff caused the Regional Board to overlook
15 the potential harm that their 85th percentile storm retention mandate could cause to downstream
16 habitats. During rebuttal testimony, staff erroneously implied that the Regional Board actions
17 are not subject to the Federal Endangered Species Act (ESA). *See, e.g.*, Unofficial Board
18 transcript File 128a1:34:00 (Testimony of Chiara Clemente), (on file with San Diego Regional
19 Water Quality Control Board) (hereinafter “Unofficial Board Transcript”) (“I just want to point
20 out . . . [t]here is no section 7 obligation on us or anything of the such”). While it is true that the
21 Regional Board is not subject to Section 7 of the ESA because it is not a federal agency, Board
22 actions are certainly subject to other provisions of the ESA.

23
24 The ESA makes it unlawful for “any person” to “take” any endangered species. 16 U.S.C.A. §
25 1538. The ESA’s definition of “person” includes “. . . any State, municipality, or political
26 subdivision of a State. . . .” 16 U.S.C.A. § 1532. A “take” in the context of the ESA
27 encompasses habitat modification or degradation as well as the direct killing, harming, or
28 harassing of species. 16 U.S.C. § 1532(19) and 50 CFR § 17.3. Hence, if the Regional Board’s
29 adoption of the 85% retention standard causes adverse effects on downstream flow and habitat,
30 their action could violate the ESA’s prohibition against taking endangered species. *See e.g.*,
31 *Palila v. Hawaii Dep’t of Land and Natural Res.*, 471 F. Supp. 985 (1979), *aff’d*, 639 F.2d 495
32 (9th Cir. 1981); *Strahan v. Coxe*, 127 F.3d 155 (1st Cir. 1997). Clearly, Regional Board actions
33 may not legally cause effects that create a possibility of a “take” of state or federally listed
34 threatened or endangered species without performing the requisite coordination beforehand.¹

¹ Per the National Oceanic and Atmospheric Administration (NOAA), the agency charged with the recovery of anadromous fish populations, “When non-Federal entities such as states, counties, local governments, and private landowners wish to conduct an otherwise lawful activity that might incidentally, but not intentionally, “take” a listed species, an incidental take permit (ESA section 10(a)(1)(B)) must first be obtained from NOAA Fisheries.” NOAA Fisheries, Office of Protected Resources, *Conservation Plans* (CPs), available at , <http://www.nmfs.noaa.gov/pr/permits/cp.htm>.

1 Here, the administrative record and testimony of Regional Board Staff suggests that no
2 coordination with state and federal wildlife protection agencies took place at all.

- 3
- 4 a. It was an abuse of discretion for the Board to take action that the Board knew or
5 should have known would have the potential to harm downstream threatened and
6 endangered species and their habitat in favor of “refilling” the upper aquifers, *cf.*,
7 Unofficial Board Transcript , File 128 at 3:10 (comments of Chair Destache).
 - 8 b. If the Regional Board was going to find that there would be no harm to threatened
9 and endangered species and the beneficial uses that support them via adequate flow,
10 it was required to show more than a “back of the envelope” analysis, *see* Unofficial
11 Board Transcript, File 128 at 2:35 (testimony of David Gibson), on the hydrologic
12 impact of implementing the 85th percentile retention standard. Staff introduced no
13 evidence on the likely impacts on threatened and endangered species—and
14 intentionally avoided answering the question by Board Member Strawn on whether
15 the implications of reduced flow on salmonids had been considered by staff in
16 developing the 85th percentile retention standard. *See e.g.*, Unofficial Board
17 Transcript , File 128, at 1:37:30 (testimony of Chiara Clemente).
- 18

19 2) Findings Regarding MEP are Unsupported by Substantial Evidence in the Record:

20

21 The Regional Board failed to comply with the Clean Water Act (CWA) in that it made no
22 determination that the 85th percentile retention standard is protective of downstream beneficial
23 uses while achieving pollution reduction to the maximum extent practicable (MEP).

- 24 a. Evidence was produced by Petitioners and CPEN that artificial retention of
25 stormwater had the potential to adversely affect beneficial uses. This evidence was
26 never credibly rebutted, and indeed the Chair and other Regional Board members
27 conceded that there was likely to be an impact on downstream flows. Unofficial
28 Board Transcript, File 128 at 2:40 (comments of Chair Destache) (“I would agree
29 that there potentially would be an impact but it is not this Board’s purview to look at
30 water rights”).
- 31 b. There was no substantial evidence that the approach adopted is actually superior to
32 the Delta V alternative in removing pollutants. Regional Board Staff assumed that
33 retaining all water on site from 85th percentile storm and below would be the most
34 effective manner of reducing pollutants in runoff. However, the regional Board Staff
35 never explained to the Regional Board what happens to the pollutants in the 85-100
36 percentile storm events when the retention facilities overtop and all of the pollutants
37 go washing downstream with *no treatment whatsoever*. Additionally, in the case of
38 improperly maintained retention BMPs, the facilities would often receive no

1 treatment and would presumably reenter surface waters after being exposed to
2 sunlight and mixing with other contaminants. Unofficial Board Transcript, File 127,
3 at 1:18 (testimony of Claudio Padres).

- 4 c. There was no evidence presented or findings made by Regional Board Staff, that the
5 proposed retention standard would actually be more effective at removing pollutants
6 than the Delta V standard where any flow beyond natural retention levels would be
7 treated in bioswales and other natural treatment systems that are highly effective in
8 removing pollutants. For a discussion of the efficacy of natural treatment systems at
9 pollutant removal, *see* Transportation Research Record: Journal of the
10 Transportation Research Board, No.1984, Transportation Research Board of the
11 National Academies, Washington, D.C., (2005) pp. 135-147 and Chandana
12 Damodaram, et. al., Simulation of Combined Best Management Practices and Low
13 Impact Development for Sustainable Stormwater Management, Vol. 46, No. 5,
14 JAWRA, 907 (2010). Indeed, uncontested evidence provided by Co-Permittees,
15 before and during the hearing, provided ample justification that the retention BMPs
16 urged by Regional Board Staff have a high failure rate and are likely to lead to
17 greater pollutant discharges than would result with the adoption of a Delta V
18 approach that focuses on a combination of infiltration and natural treatment BMPs.
19 Unofficial Board Transcript, , File 127, at 1:17:45 (testimony of Claudio Padres).
- 20 d. The Regional Board failed to make findings, based on evidence in the record, that
21 the Regional Board Staff's exclusive alternative (*i.e.* 85th percentile retention
22 standard) was indeed the most effective at removing pollutants from the MS4, *see*
23 *Northwest Environmental Defense Center v. Bonneville Power Admin.* 477 F.3d 668,
24 687-691 (2007) citing *Motor Vehicle Mfgs. Ass'n v. State Farm Mutual Auto. Ins.*
25 *Co.*, 463 U.S. 29, 43, 103 S.Ct. 2856, 77 L.Ed.2d 443 (1983), and moreover, that the
26 implementation of the alternative would be the most likely to achieve the protection
27 of downstream beneficial uses. *See, e.g.*, Water Code § 13263. The Board's failure
28 to do so was an abuse of discretion.

29
30 3) Board Based Its Decision to Adopt the Regional Staff Recommendation Upon Improper
31 Criteria:

32
33 The record of the 10 November hearing reflects that the Regional Board based its decision to
34 accept Regional Board Staff recommendations upon administrative convenience and the desire to
35 create "new water supplies" rather than an evidentiary finding that the recommended LID BMPs
36 were the best mechanism available to ensure protection of beneficial uses. Neither of these bases
37 was an appropriate consideration for approving a NPDES permit or a Waste Discharge
38 Requirements (WDR) and was an abuse of discretion for the Regional Board to base its approval
39 of the proposed LID requirements upon these non water-quality related considerations, *See id.*

- 1 a. Regional Board Staff and the Executive Officer indicated at numerous times in
2 Regional Board Staff testimony and rebuttal that they wanted a regional stormwater
3 permit where they would not have to worry about site specific watershed
4 considerations in the future. *See, e.g.*, Unofficial Board Transcript, File 128, at
5 1:35:50, (Testimony of Chiara Clemente)

6 *I just want to point out the resource burden it is to get these*
7 *permits adopted . . . So we hope not to have to reinvent the wheel*
8 *every time and that's exactly why we hoped to have a regional*
9 *permit so that we can tie together the common elements and the*
10 *common standards and not worry so much about the details of*
11 *each of these permits.*

12 Regional Board Staff resisted the “Delta V” concept for stormwater retention
13 proposed by Petitioners and the Co-Permittees because, in their view, it was too
14 administratively burdensome and, unlike the South Orange County MS4 Permit
15 previously approved by the Regional Board, would require Regional Board Staff
16 to consider site specific conditions. *See* Unofficial Board Transcript, Tape 128 at
17 1:59:15 (testimony of Ben Neill). The Clean Water Act and EPA guidance, on
18 the other hand, encourages the consideration of site specific watershed conditions
19 in order to ensure that beneficial uses in each water segment are protected. “The
20 agency charged with implementing the statute is not free to evade the
21 unambiguous directions of the law merely for administrative convenience.” *Ohio*
22 *Valley Environmental Coalition v. Horinko* 279 F.Supp.2d 732,
23 748 (S.D.W.Va.,2003) citing *Brown v. Harris*, 491 F.Supp. 845, 847
24 (N.D.Cal.1980) (citing *Manhattan Gen. Equip. Co. v. Commissioner of Internal*
25 *Revenue*, 297 U.S. 129, 134, 56 S.Ct. 397, 80 L.Ed. 528 (1936)). Administrative
26 convenience means very little if beneficial uses are not protected by the issuance
27 of a discharge permit, and Regional Board Staff presented no credible evidence
28 that the 85th percentile retention standard would cause no harm to downstream
29 beneficial uses.

- 30 b. Further, the Regional Board appeared to accept the staff premise—which had no
31 evidentiary basis in the administrative record—that adopting the 85th percentile
32 retention standard would increase local water supplies and local water reliability for
33 the watershed. This premise is questionable on its face given that the legal uses of
34 untreated stormwater are limited in California, and in most cases conveyance
35 systems and storage facilities to support large scale movement of stormwater for
36 municipal supply are lacking. Whether Regional Board Staff’s premise was accurate
37 or not, neither the desire to increase water efficiency, nor the intent to reallocate
38 water supplies within the region formed a proper basis for requiring a particular suite
39 of stormwater BMPs. The BMPs should have been premised, exclusively, on the
40 ability of the 85th percentile storm retention standard to remove pollutants and

1 protect beneficial uses (in the permit area, and downstream) to the maximum extent
2 practicable. *See Northwest Environmental Defense Center, supra.* The Regional
3 Board never made such a water quality related finding, nor was it given sufficient
4 evidence in the record by Regional Board Staff to allow it to do so.
5

6 4) The Board Erred When It Refused to Consider the Potential Adverse Impacts of the 85th
7 Percentile Retention Standard on Downstream Beneficial Uses:
8

- 9 a. Water Code Section 13263 requires that a Regional Board “shall take into
10 consideration the beneficial uses to be protected” in making permitting decisions.
11 Here the Regional Board, faced with the possibility of an adverse impact on
12 downstream beneficial uses, remarkably declined to even consider them. Chair
13 Destache, accepted the erroneous approach suggested by Regional Board
14 staff/counsel, over the objection of the Co-Permittees, and effectively precluded
15 consideration of any impacts on downstream beneficial uses under the rubric that
16 such a consideration involved “water rights,” which he believed to be outside the
17 ambit of the Regional Board’s responsibilities. *See Unofficial Board Transcript, File*
18 *128 at 2:40 (comments of Chair Destache).* Moreover, Chair Destache, acting upon
19 the erroneous advice of his counsel² regarding the proper role of the Regional Board
20 vis-à-vis downstream beneficial uses and water rights (water rights which
21 themselves are the embodiment of the Municipal, Agricultural and Industrial
22 beneficial uses), appeared to completely segment the watershed for purposes of
23 considering the impact of the permit on protection of beneficial uses. Chair
24 Destache noted, before calling for a vote, that “we have to fill our aquifers
25 regardless” [of any impact on downstream beneficial uses] via infiltration. While
26 filling up historically depleted aquifers in the Temecula Basin may be a good idea,
27 and indeed under different circumstances an initiative that CPEN might heartily
28 support, mandating refilling of upstream aquifers as an NPDES performance
29 standard is not within the purview of the Regional Board (per the Wallop
30 Amendment and the fact that the CWA only applies to surface waters) 33 U.S.C.A.
31 §§ 1311, 1362 (12) and 1251(g). Even if the Regional Board did possess such power

² See *infra* Paragraphs 7 and 8 for discussion of Board Counsel Hagan’s misinterpretation of the Wallop Amendment and the proper role of the Regional Board in making decisions about water supply vis-à-vis the retained authority of the Federal District Court for the Southern District of California. See also Unofficial Board Transcript File 128 at 1:22:05 (comments of Board Counsel Hagan) (suggesting, erroneously, that there could be no harm to downstream water rights because all rain that lands on a development belongs to the property owner— notwithstanding that the water may have been diverted from a surface water tributary of the Santa Margarita River).

1 under the CWA, such infiltration could not be undertaken to the detriment of
2 downstream beneficial uses.

- 3 b. The Regional Board has a duty to protect all beneficial uses in a watershed when it
4 issues or reissues an NPDES permit or WDR. By determining that the Board would
5 only consider the impacts of the permit in the Temecula Basin and the other
6 geographic areas within the control of the Co-Permittees at the hearing—leaving the
7 problems caused downstream for consideration at some amorphous future date, the
8 Regional Board abused its discretion and acted in an arbitrary and capricious
9 manner.

10
11 5) The Board Erred When it Prescribed the Specific BMPs that the Co-Permittees had to
12 Implement Rather Than Allowing the Co-Permittees to Determine the Most Effective
13 Manner of Reducing Pollution:

14
15 Water Code § 13360 prohibits the Regional Board from specifying the particular manner in
16 which compliance may be had with a waste discharge requirement, including the MS4
17 Stormwater permit at issue here. These sections of the permit included Sections F.2.d.(3),
18 F.3.a.(3)(c), and F.6.a. The BMPs proposed by the Co-Permittees would have combined onsite
19 retention with natural treatment in a manner that would have mimicked the natural hydrograph.
20 Downstream beneficial uses would have benefited from cleaner water in quantities that mirrored
21 the natural hydrologic regime. However, by unilaterally directing BMPs that are poorly suited to
22 a hydrologically disconnected basin like the Santa Margarita, the Regional Board created
23 problems for beneficial uses in both the Upper (infeasibility of implementation with high
24 likelihood of BMP failure) and Lower Santa Margarita Basin (loss of critical flows).

25
26 6) The Board Erred When It Considered and Relied Upon Staff’s Technically Deficient
27 Non-Record Evidence Regarding Potential Hydrologic Harm to Beneficial Uses:

- 28 a. From early October forward, Regional Board staff was well aware that Camp
29 Pendleton and the Co-Permittees were seeking a “Delta V” approach to stormwater
30 retention which would seek to match post development hydrology with the existing
31 hydrology at the site prior to development.³ Maintaining a “natural” hydrograph that

³ Camp Pendleton and its technical team met with and corresponded with Regional Board staff regarding the use of the Delta V standard in lieu of the 85% storm retention standard on numerous occasions prior to the November 10 Board Hearing. Camp Pendleton first provided documentation to the Regional Board showing a probable loss in flow during a meeting with Board Staff on October 4, 2010. See November 10 Regional Board Hearing on ORDER R9-2010-0016, Supporting Document 14 (Documents provided by commenting parties after the close of the written comment period). Camp Pendleton and the Co-Permittees again provided Regional Board staff with data and analysis demonstrating a likely diminution of the hydrograph associated with Staff’s proposal during a stakeholder meeting on October 13 in Temecula. *Id.*

1 matches up pre and post development hydrology is the very definition of LID.⁴
2 Water above and beyond the Delta V would be treated in natural filtration systems—
3 thereby resulting in either retention or treatment for nearly all stormwater in the
4 Upper Santa Margarita Basin and avoiding risks to downstream beneficial uses
5 associated with artificial retention. Given the extensive correspondence and
6 dialogue on the Delta V issue, Regional Board Staff was well aware that both
7 Petitioner and the Co-Permittees believed the Delta V approach to be critical to an
8 enforceable permit capable of protecting both upstream and downstream beneficial
9 uses. Remarkably, however, Regional Staff did not address the Delta V issue until
10 their case in rebuttal.

- 11
- 12 b. During rebuttal, staff introduced, for the first time, a very questionable technical
13 analysis, See Declaration of Stephen P. Reich attached as Exhibit A, which
14 purported to show that the hydrologic concerns of the Co-Permittees and Camp
15 Pendleton were overblown. *See* Unofficial Board Transcript File 128 at 1:56:10 and
16 2:31:00 (testimony of Ben Neill). Despite a timely request by counsel for the Co-
17 Permittees, Camp Pendleton and the Co-Permittees were not permitted to cross
18 examine Mr. Neill regarding his remarkable technical analysis—an analysis which
19 claimed that *rain events of up to 3.7 inches would produce no runoff on undeveloped*
20 *lands in Riverside County.* *See* Unofficial Board Transcript File 128 at 1:56:10 and
21 2:31:30 P.M. (testimony of Ben Neill). Camp Pendleton and the Co-Permittees were
22 also never provided the documents relied upon by staff for staff’s testimony. After

Camp Pendleton again met with Board staff on October 27 and endeavored to provide additional data showing that downstream beneficial uses would be harmed by the arbitrary implementation of fully retaining upstream the 85th percentile storm event. In each instance, Board staff requested more data and more proof utilizing different hydrologic scenarios, and each time Camp Pendleton endeavored to comply with Staff’s requests. However, Board Staff kept their cards close to the vest and never offered their evidence of why they believed there would no adverse hydrologic impact in the Santa Margarita. Camp Pendleton again sought to reinforce and clarify the harm it was likely to suffer in correspondence to Board staff on November 3, 2010, and finally to the Board Executive Officer on November 8. All of these interactions and extensive correspondence put Board staff on notice, in unambiguous terms, of Camp Pendleton’s concerns with the 85th Percentile storm retention standard and the hydrologic basis therefore.

⁴ See California State Water Resources Control Board, *Low Impact Development – Sustainable Storm Water Management*, at http://www.waterboards.ca.gov/water_issues/programs/low_impact_development (“The goal of LID is to mimic a site’s predevelopment hydrology by using design techniques that infiltrate, filter, store, evaporate, and detain runoff close to the source of rainfall.”).

1 the Chair expressed concern that none of the documents relied upon by staff were in
2 the administrative record, the Executive Officer intervened and requested that the
3 Regional Board essentially disregard the objections of downstream interests as being
4 outside the scope of the permit hearing. *See* Unofficial Board Transcript File 128 at
5 2:35:25 (testimony of David Gibson). The Chair agreed with the Executive Officer
6 and Mr. Neill’s statements and conclusions were allowed to remain before the Board
7 unchallenged. The unofficial transcript of the hearing suggests that the “surprise”
8 testimony of Mr. Neill played a critical role in creating doubt in the minds of Board
9 Members on whether the 85th percentile retention standard would actually harm
10 downstream interests. *See, e.g.*, Unofficial Board Transcript at 3:04:25 (comments
11 of Board Member Strawn) (“we are going on staff recommendation that [the 85th
12 percentile storm retention standard] would not reduce the flow and if in fact data
13 becomes available that shows the flow is reduce we need to pull back and review
14 this decision”).

- 15
- 16 c. It is the policy of the State and Regional Boards to discourage the introduction of
17 surprise testimony and exhibits. 23 CCR Section 648.4. While it is true that cross-
18 examination and review of documents supporting rebuttal testimony and witnesses is
19 not required under the pertinent State Board regulations, neither the State Board nor
20 the California courts permit “sandbagging” whereby one side essentially achieves
21 unfair surprise by holding back information that is critical to that party’s case in
22 chief in order to decrease the risk that critical information will challenged or
23 subjected to cross examination when the information is presented during rebuttal.
24 *See* Thomas A. Mauet, *Trials: Strategy, Skills, and the New Power of Persuasion*
25 (2005) 559.
- 26
- 27 d. The calculations and hydrologic assumptions presented by Ben Neill during the
28 Regional Board Staff’s rebuttal were exactly the type of information that should
29 have been part of the administrative record—available for public review and
30 comment before the hearing. As indicated in footnote 3, *supra*, the Regional Board
31 Staff knew downstream impacts was a critical issue, and certainly had ample
32 opportunity to add Mr. Neill’s calculations and technical analysis to the
33 administrative record before the hearing. They chose not to. At minimum, these
34 materials should have been made part of Regional Board Staff’s case in chief so that
35 these critical, yet never before reviewed, pieces of questionable information (no
36 natural runoff from a nearly four inch rain event in flood prone Southern
37 California?) could have been probed for technical accuracy and validity by the Co-
38 Permittees and Petitioner. *Cf.*, *North Pacifica, LLC, v. City of Pacifica* (N.D. Cal.
39 2005) 366 F. Supp. 2d 927, 929 (City’s late-raising of a determinative defense was
40 an unfair surprise sufficient to preclude its assertion); *The Travelers Indemnity*

1 *Company v. Liberty Mutual Insurance Company* (N.D. Cal. 1997) 1997 U.S. Dist
2 LEXIS 4573, 7-9 (post-trial demand that raised significant new legal issues was
3 deemed an unfair surprise and rejected). This sort of gamesmanship on rebuttal is
4 not permitted by the California Courts, *see generally Walt Disney World Co. v.*
5 *Montgomery Kone, Inc.*, 2002 Cal. App. Unpub. LEXIS 5067, 4, 9-10; *County of*
6 *Monterey v. W. W. Leasing Unlimited* (1980) 109 Cal. App. 3d 636, 643-645, and
7 the State Board should not countenance it either—particularly where those persons
8 involved are State Board employees.

9
10 7) The Board Erred When It Refused to Consider the Likely Impact of the Permit on
11 Downstream Water Rights:

- 12 a. *Failure to comply with the Wallop Amendment:* The Wallop Amendment to the Clean
13 Water Act, 33 U.S.C. 1251(g), was expressly enacted by Congress for the protection
14 of existing state and federal water rights such as those held by Camp Pendleton to
15 the waters of the Santa Margarita River system. The Wallop Amendment states, in
16 pertinent part:

17 *It is the policy of Congress that the authority of each State to allocate*
18 *quantities of water within its jurisdiction shall not be superseded,*
19 *abrogated or otherwise impaired by this Act. It is the further policy of*
20 *Congress that nothing in this Act shall be construed to supersede or*
21 *abrogate rights to quantities of water which have been established by any*
22 *State.*

23 EPA recognizes the limitations that the Wallop Amendment places on NPDES
24 permitting entities, observing in its Wallop Amendment Guidance that the NPDES
25 permitting authority “should therefore impose requirements which affect water usage
26 only where they are clearly necessary to meet the Act’s requirements.” *See* U.S.
27 Environmental Protection Agency, Memorandum to Regional Administrators, *State*
28 *Authority to Allocate Water Quantities—Section 101(g) of the Clean Water Act*
29 (Nov. 7, 1978). The EPA Guidance Memorandum explains that Senator Wallop’s
30 amendment did not necessarily intend to trump all Clean Water Act actions that
31 might adversely affect individual water rights where the permitting action was
32 “incidental” and minor in nature. *Id.*

- 33 b. In the case at hand, however, the action of the Regional Board vis-a-vis Camp
34 Pendleton’s water rights was anything but incidental, and the Board expressly
35 declined, upon the advice of Board counsel, and contrary to the EPA Guidance on
36 the Wallop Amendment, to even consider the possible adverse impact on vested
37 water rights that the permit might cause. Unofficial Board Transcript, File 126 at
38 4:13:00 and 15:28 (testimony of Chiara Clemente and Ben Neill) and File 128,
39 1:22:05 (Comments of Board Counsel Catherine Hagan). Contrary to Camp
40 Pendleton’s specific request during the hearing that their water rights be accorded

1 proper deference, *see* Unofficial Board Transcript File 128, at 47:45 and 32:07
2 (testimony of Jeremy Jungreis and Paul Boughman), the Board made no findings
3 based on credible evidence in the record that the imposition of the 85th Percentile
4 Retention Standard (as opposed to the Delta V standard) was “clearly necessary to
5 meet the Act’s requirements.” Indeed, they would have had great trouble doing
6 so given that the Regional Board never made findings that the BMP for reducing
7 pollution to the MEP was the 85th Percentile Retention Standard. To compound
8 the violation of the Wallop Amendment, the record reflects that the Board’s
9 action appeared to contain the express purpose of reallocating water in the
10 Temecula Basin for purposes of refilling historically depleted groundwater
11 basins—groundwater basins that were mined to the detriment of Camp Pendleton
12 by a competing water user.⁵ *See* Unofficial Board Transcript, Hearing File 128, at
13 47:45 (Testimony of Jeremy Jungreis). Thus, the action of the Board vis-à-vis
14 diminution of Camp Pendleton’s water rights was anything but incidental, it was
15 intentional—and an abuse of discretion under the Regional Board’s delegated
16 Clean Water Act permitting authority. Refusal to even acknowledge the Wallop
17 Amendment, which is a congressional standard governing the application of the
18 Clean Water Act, is a refusal to apply “legislative standards validly set up” and
19 constitutes an error of law; *People ex rel. Fund American Companies v.*
20 *California Ins. Co.* (1974) 43 Cal.App.3d 423, 431; *Quackenbush v. Mission Ins.*
21 *Co.* (1996) 46 Cal.App.4th 458, 466; and is grounds for remand of this permit by
22 the State Board.

23
24 8) Regional Board Counsel Caused the Regional Board to Abuse its Discretion by
25 Erroneously Advising that any Water Rights Harm to Camp Pendleton Could be Fixed by
26 the State Board:

- 27 a. Since 1951, the rights to the waters of the Santa Margarita River have been the
28 subject of an ongoing adjudication in *United States v. Fallbrook Public Utility*
29 *District, et al.*, Case No. 1247 in the District Court for the Southern District of
30 California, a circumstance that had been made known to the Regional Board Staff
31 since the outset of this particular permit process. The District Court has specifically
32 retained continuing jurisdiction over the very surface water runoff that the Regional
33 Board unlawfully directed to be intercepted by priority development projects
34 upstream from Camp Pendleton. As previously indicated in this appeal, the area

⁵ The groundwater in the Upper Santa Margarita Basin was depleted by many years of groundwater mining by one of the competing water rights holders in the Santa Margarita River, the Rancho California Water District. In effect Chair Destache suggested during the hearing that the Board reallocate water for the benefit of the very water user that damaged the groundwater basin by creating a condition of hydrologic disconnect in the first place.

1 subject to ORDER R9-2010-0016 is the Murrieta-Temecula Groundwater Basin, the
2 subject of Interlocutory Judgment No. 30, in which Order No. 5 thereof provides in
3 pertinent part as follows:

4
5 *IT IS FURTHER ORDERED, ADJUDGED AND DECREED that*
6 *all surface waters which flow over and upon any lands within the*
7 *ground water area depicted on U.S. Exhibit 277 and described in*
8 *U.S. Exhibit 277A [the Murrieta-Temecula Groundwater Area per*
9 *Finding of Fact No.1], which exhibits are herein incorporated by*
10 *reference, are a part of the Santa Margarita River and subject to*
11 *the continuing jurisdiction of this Court.*
12

- 13 b. The Regional Board Counsel, in addition to inappropriately advising Regional Board
14 Staff (incorrectly) on the very same issues to which she later advised her Board, (*See*
15 *Petition for Review by Riverside County*), also erroneously advised her Board as to
16 their responsibilities vis-à-vis water rights. While she correctly assessed that the
17 Regional Board has no authority to grant or revoke water rights, she abused her
18 discretion when she advised that the Board that they *should not consider the*
19 *unintended consequences of the permit on downstream water rights at all*. Clearly
20 the act of directing artificial retention of water that would otherwise flow
21 downstream in a pre-development state is likely to have water rights implications.
22 The Wallop Amendment, and the continuing jurisdiction of a federal judge over all
23 waters of the Santa Margarita River, necessitated that the Regional Board take water
24 rights implications into consideration when making decisions with clear water
25 supply consequences, but Regional Board Counsel suggested the exact opposite to
26 her Board. She erroneously advised that any harm suffered by downstream interests
27 could be remedied by some amorphous future action of the State Board. This advice
28 was incorrect on its face. Even if the Federal Court had not retained continuing
29 jurisdiction, the State Board has no jurisdiction over riparian water rights and Pre-
30 1914 water rights. *See California Water Code Section 1200 et. seq.* Camp
31 Pendleton possesses and exercises both of these protected and vested state law water
32 rights, and any injury to these rights could not be addressed by the State Board.
33 Camp Pendleton's riparian rights and Pre-1914 water rights would both be injured
34 by the diminution of flows likely to be caused by ORDER No. R9-2010-0016 in its
35 current form.
36
- 37 c. Regional Board Counsel's erroneous advice is clearly an error of law, and grounds
38 for review of the adoption of the subject Order. *See Garamendi v. Golden Eagle Ins.*
39 *Co.* (2004) 116 Cal.App.4th 694, 703. Regional Board Counsel's advice was
40 followed and materially acted upon by the Regional Board in reaching its decision
41 that forms the subject of this appeal. The Chair of the Regional Board used her
42 advice as the basis to decline examination of crucial witnesses, as a basis for
43 advising the Regional Board not to consider the impact of the permit on downstream
44 beneficial uses (standing alone, an abuse of discretion since downstream beneficial
45 uses that require flow must be protected irrespective of downstream water right

1 claims), and as a basis for suggesting that water in the Santa Margarita Basin be
2 reallocated to the refilling of groundwater in the Temecula Basin to the benefit of the
3 very entity that mined the groundwater in the first place. Her error was material and
4 prejudicial and caused the Board to abuse its discretion in approving ORDER No.
5 R9-2010-0016 in its current form.
6

7 **8. A statement that the petition has been sent to the appropriate Regional Board**
8 **and to the discharger, if not the petitioner:**
9

10 A true and correct copy of this petition as been delivered to the Executive Officer of the
11 California Regional Water Quality Control Board, San Diego Region and the following Co-
12 Permittees (Dischargers).
13

14 Jason Uhley, P.E.
15 Claudio M. Padres, P.E.
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3
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7 23873 Clinton Keith Road
8 Wildomar, CA 92595
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10 E-mail: tdzmura@cityofwildomar.org
11

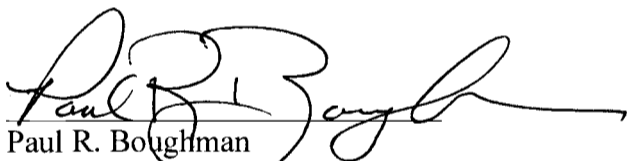
12 **9. A statement that the substantive issues or objections raised in the petition were**
13 **raised before the Regional Board, or an explanation of why the petitioner was**
14 **not required or was unable to raise these substantive issues or objections, before**
15 **the Regional Board:**
16

17 Petitioner made every effort to resolve this matter before the Regional Board. The issues
18 relevant to this Petition were raised by Petitioner in comment letters dated September 7, 2010.
19 Further, numerous electronic mail communiqués and phone calls/conferences were conducted
20 between Camp Pendleton Staff and the Regional Board Staff. Finally, these issues were further
21 presented through oral testimony presented at the November 10, 2010 Regional Board hearing.
22

23 **Abeyance Request:** Petitioner requests the State Board hold this Petition in abeyance pursuant
24 to the provisions of subsection (d) of 23 California Code of Regulations Section 2050.5, for a
25 period not to exceed two years from the date of this filing. Petitioner anticipates continued
26 dialogue with the Regional Board in light of the errata change to the MS4 permit resulting from
27 the November 10, 2010 hearing. Petitioner will notify the State Board if it intends to activate this
28 appeal. Petitioner understands it will be given the opportunity to amend this Petition in the event this
29 Petition is converted to active status.
30

31 Dated: December 10, 2010
32

33 Respectfully submitted,
34

35 
36
37

38 Paul R. Boughman
39 Attorneys for Petitioner

EXHIBIT A

1 Diego Regional Water Quality Control Board (RWQCB) hearing held at the City of
2 Temecula. Mr. Neill's comments were directly related to the permit decision which is
3 the subject of this appeal, and his comments were relied upon by the San Diego
4 Regional Water Quality Control Board in its decision to adopt Order No. R9-2010-0016
5 in its current form.

6 4. I was present at the November 10, 2010 RWQCB hearing in the City of
7 Temecula and I testified to the potentially adverse effects that R9-2010-0016 would
8 have on precipitation generated runoff in the Temecula-Murrieta Basin. In preparation
9 of my testimony at the hearing, I reviewed the technical aspects and requirements of R9-
10 2010-0016 and relied upon standard engineering principles and local stormwater
11 standards as they pertain to runoff generated from precipitation events in southern
12 Riverside County.

13 5. I have reviewed an unofficial transcript of Mr. Neill's testimony pertaining to the
14 runoff generated from precipitation in the Upper Santa Margarita Basin. The following
15 comments are based on Mr. Neill's testimony that began at roughly 2:30 pm on
16 November 10, 2010.

17 6. The 2-year 24-hour rainfall map relied upon by Mr. Neill during his testimony is
18 inconsistent with the runoff design methodology described in R9-2010-0016. The 2-
19 year 24-hour rainfall map represents the annual storm frequency based on selecting the
20 largest storm of each year from a station's period of record. Design criteria outlined in
21 R9-2010-0016 are based on the 24-hour 85th percentile rainfall event that is calculated
22 using all 24-hour rainfall quantities from a station's period of record. The 2-year 24-
23 hour rainfall event and the 24-hour 85th percentile rainfall event are not equivalent.
24 Because the 2-year 24-hour rainfall map is based on the largest storm from each year
25 and the design criteria from R9-2010-0016 is based on all daily rainfall quantities, it is
26 inconsistent to introduce the 2-year 24-hour map in testimony related to R9-2010-0016.
27 Introduction of the 2-year 24-hour rainfall map is not relevant because the data derived
28

1 from this map will not be used to implement LID BMPs as specified in RWQCB Order
2 R9-2010-0016.

3 7. Mr. Neill's statement that the 2-year 24 hour precipitation event in southern
4 Riverside County is "roughly 1.5 inches" is inconsistent with Order R9-2010-0016.
5 Footnote 13 of Tentative Order R9-2010-0016 states "*The copermitees are encouraged*
6 *to calculate the 85th percentile storm event for each of its jurisdictions using local rain*
7 *data pertinent to its particular jurisdiction (0.6 inch standard is a rough average for the*
8 *County and should only be used where appropriate rain data is not available).*"
9 Jurisdictional data from the Wildomar rain station indicate that the 24-hour 85th
10 percentile storm is 0.8 inches. The 2-year 24-hour rainfall is not equivalent to the 85th
11 percentile 24-hour rainfall and is not relevant to the Order. Additionally, Riverside
12 County's 2-year 24-hour rainfall map shows a minimum of 1.6 inches of rainfall in
13 Winchester, 1.8 inches in Temecula, and 2.5 inches of rainfall in Wildomar, not 1.5
14 inches as described by Mr. Neill. The introduction of the 2-year 24-hour rainfall depth
15 of 1.5 inches has no rational basis to be compared to R9-2010-0016 since its rainfall
16 depth is 250% that of the design rainfall depth of 0.6 inches identified in the subject
17 order.

18 8. Mr. Neill's testimony which suggests there would be no natural runoff from a
19 24-hour 3.7 inch rainfall event is without merit. Review of rainfall data from the
20 Wildomar rainfall station indicates that there have been only thirteen 24-hour events
21 greater than 3.7 inches since 1924. The probability of a 24-hour rainfall event at the
22 Wildomar rainfall station being greater than 2.9 inches is less than 1%. If no runoff
23 occurred from a 3.7 inch precipitation event, which occurs less than 1% of time out of
24 all storm events, then the 0.6 inch design volume established in Order No. R9-2010-
25 0016 is under designed and will lead to ineffective BMPs.

26 9. Mr. Neill's testimony that no runoff would occur from 0.6 inches rainfall per 24
27 hours assuming dominant soil types B and C, chaparral and sagebrush vegetation, and
28 average antecedent moisture content is flawed. The Natural Resources Conservation

1 Service (NRCS) Curve Number method from TR-55 is a nation-wide approach for
2 calculating total runoff based on total storm depth and is not dependent on hourly
3 rainfall intensity. The Riverside County Flood Control Department's method for
4 calculating runoff is more appropriate because it accounts for rainfall intensity that
5 directly relates to runoff volume. A 0.6 inch rainfall depth over a 12-hour period,
6 compared to a 0.6 inch depth over a 36-hour period, will have greater intensity and
7 greater runoff. Assuming Mr. Neill was referring to the total storm depth of 0.6 inches,
8 the NRCS method should not be used to calculate the runoff, given the assumptions
9 stated by Mr. Neill, since it will underestimate runoff by not accounting for intensity.
10 Using the location-specific Riverside County Flood Control Methodology that accounts
11 for rainfall intensity, runoff will occur from a 0.6 inch rainfall event given the
12 assumptions stated by Mr. Neill.

13 10. The 24-hour 85th percentile precipitation depth based on 83 years of record from
14 the Wildomar precipitation station is 0.8 inch. Assuming similar conditions specified by
15 Mr. Neill (Soil Types B or C, open brush with fair cover, and average antecedent
16 moisture), applying the Riverside County Flood Control District's rainfall intensity
17 methodology to calculate runoff results in a natural runoff of 2% to 3% of the total
18 rainfall. Runoff as a percentage of rainfall will increase as vegetation degrades, soils
19 become less sandy and loamy, and subsequent rainfall occurs that changes the
20 antecedent moisture condition.

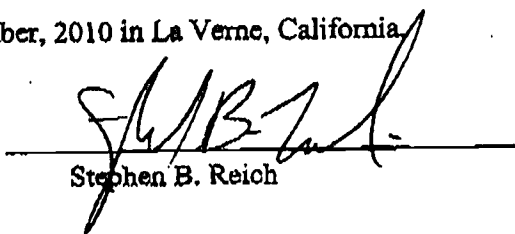
21 11. Mr. Neill's testimony "using all of those numbers in the equation and you would
22 get no natural runoff from the first 1.17 inches over a 24-hour storm up to 3.7 inches" is
23 misleading and inaccurate. First, the 2-year 24-hour rainfall map represents each year's
24 maximum 24-hour storm and does not reflect the R9-2010-0016 that specifies
25 engineering design based on all 24-hour precipitation events. Second, the NRCS method
26 used in TR-55 is a storm-dependent nation-wide equation that does not account for
27 rainfall intensity. Intensity is accounted for in the Riverside County Flood Control
28 Methodology. Lastly, Mr. Neill's suggestion that there is no runoff from a 3.7 inch

1 storm event, which occurs less than 1% of all days that rainfall occurs, is contrary to the
2 design criteria outlined in the permit, and indeed would seem to suggest there is no real
3 need implement the LID Retention BMP specified in R9-2010-0016. R9-2010-0016
4 states that LID BMPs should be designed for "the volume of runoff produced from a 24-
5 hour 85th percentile storm event." This statement within the permit implies that the 24-
6 hour 85th percentile event will produce runoff. Since the 0.8 inches of precipitation
7 which occurs during the 85th percentile storm is anticipated to produce runoff, runoff
8 will certainly occur for a 3.7-inch, 24-hour event.

9 12. The RWQCB should only have considered adoption of the permit based on
10 hydrology and runoff calculations that accurately reflect the conditions in southern
11 Riverside County. Based on the results presented in this declaration, as well as data
12 presented to RWQCB Staff prior to November 3, 2010, runoff will occur from the 24-
13 hour 85th percentile storm depth (0.8 inches) and will not be zero up to a rainfall depth
14 of 3.7 inches as indicated by Mr. Neill.

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

17 14. Executed this 10th day of December, 2010 in La Verne, California

18
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28

Stephen B. Reich

**California Regional Water Quality Control Board
San Diego Region**

**Waste Discharge Requirements for
Discharges from the
Municipal Separate Storm Sewer Systems (MS4s)
Draining the County of Riverside, the Incorporated
Cities of Riverside County, and the Riverside
County Flood Control and Water Conservation
District within the San Diego Region**

**Tentative Order No. R9-2010-0016
NPDES NO. CAS0108740**

October 13, 2010

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

9174 Sky Park Court, Suite 100, San Diego, California 92123-4340
Phone • (858) 467-2952 • Fax (858) 571-6972

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

To request copies of the Riverside County Municipal Storm Water Permit, please contact Ben Neill, Water Resources Control Engineer at (858) 467 – 2983, bneill@waterboards.ca.gov

Documents also are available at: <http://www.waterboards.ca.gov/sandiego>

**Waste Discharge Requirements for
Discharges from the
Municipal Separate Storm Sewer Systems (MS4s)
Draining the County of Riverside, the Incorporated Cities of
Riverside County, and the Riverside County Flood Control
and Water Conservation District within the San Diego Region**

Adopted by the
California Regional Water Quality Control Board
San Diego Region
on October 13, 2010

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION
9174 Sky Park Court, Suite 100
San Diego, California 92123-4340**

Telephone (858) 467-2952

STATE OF CALIFORNIA
ARNOLD SCHWARZENEGGER, Governor
LINDA S. ADAMS, Agency Secretary, California Environmental Protection Agency



**California Regional Water Quality Control Board
San Diego Region**

David King <i>Chair</i>	Recreation / Wildlife
Grant Destache <i>Vice Chair</i>	Industrial Water Use
Eric Anderson	Irrigated Agriculture
Wayne Rayfield	Water Quality
George Loveland	Water Supply
Marc Luker	Undesignated (Public)

David W. Gibson, *Executive Officer*
James Smith, *Assistant Executive Officer*

This permit was prepared under the direction of

David T. Barker P.E., *Supervising Water Resource Control Engineer, Surface Water Basins Branch*
Chiara Clemente, *Senior Environmental Scientist, Northern Watershed Unit*

by

Benjamin Isaac Neill, *Water Resource Control Engineer*
Chad Lörtscher Lofen, *Environmental Scientist*
Wayne Chiu P.E., *Water Resource Control Engineer*

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Attachment A – Basin Plan Prohibitions

Attachment B – Standard Provisions, Reporting Requirements, and Notifications

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Attachment D – Scheduled Submittal Summary and Reporting Checklist Requirements

Attachment E – Receiving Waters And MS4 Discharge Monitoring And Reporting
Program No. R9-2010-0016

Attachment F – Data

DRAFT

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

A. BASIS FOR THE ORDER

1. This Order is based on the federal Clean Water Act (CWA), the Porter-Cologne Water Quality Control Act (Division 7 of the Water Code, commencing with Section 13000), applicable State and federal regulations, all applicable provisions of statewide Water Quality Control Plans and Policies adopted by the State Water Resources Control Board (State Water Board), the Water Quality Control Plan for the San Diego Basin adopted by the San Diego Water Board (Basin Plan), the California Toxics Rule, and the California Toxics Rule Implementation Plan.
2. This Order reissues National Pollutant Discharge Elimination System (NPDES) Permit No. CAS0108766, which was first adopted by the San Diego Water Board on July 16, 1990 (Order No. 90-38), and then reissued on May 13, 1998 (Order No. 98-02). On May 26, 1998, the United States Environmental Protection Agency (USEPA), Region IX, objected to Order No. 98-02 due to concerns regarding Receiving Water Limitations (RWL) language. The USEPA concluded that the RWL language in the permit did not comply with the CWA and its implementing regulations. On April 27, 1999, the USEPA reissued the MS4 permit, which the San Diego Water Board adopted as Addendum No. 1 to Order No. 98-02 on November 8, 2000. On July 14, 2004, the San Diego Water Board adopted the third term MS4 permit, Order No. R9-2004-001. On January 15, 2009, the Riverside County Flood Control and Water Conservation District (RCFCD), as the Principal Copermitttee, submitted a Report of Waste Discharge (ROWD) for reissuance of the municipal separate storm sewer system (MS4) Permit.
3. This Order is consistent with the following precedential Orders adopted by the State Water Board addressing MS4 NPDES Permits: Order 99-05, Order WQ-2000-11, Order WQ 2001-15, Order WQO 2002-0014, and Order WQ-2009-0008 (*SWRCB/OCC FILE A-1780*).
4. The Fact Sheet / Technical Report for the Order No. R9-2010-0016, NPDES No. CAS0108766, Waste Discharge Requirements for Discharges from the MS4s Draining the County of Riverside, the Incorporated Cities of Riverside County, and the Riverside County Flood Control and Water Conservation District within the San Diego Region, includes cited regulatory and legal references and additional explanatory information and data in support of the requirements of this Order. This information, including any supplements thereto, and any response to comments on the Tentative Orders, is hereby incorporated by reference into these findings.

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- Each of the persons in Table 1 below, hereinafter called Copermittees or dischargers, owns or operates an MS4, through which it discharges into waters of the United States (U.S.) within the San Diego Region. These MS4s fall into one or more of the following categories: (1) a medium or large MS4 that services a population of greater than 100,000 or 250,000 respectively; or (2) a small MS4 that is “interrelated” to a medium or large MS4; or (3) an MS4 that contributes to a violation of a water quality standard; or (4) an MS4 which is a significant contributor of pollutants to waters of the U.S.

Table 1. Municipal Copermittees

1. City of Murrieta	4. County of Riverside
2. City of Temecula	5. Riverside County Flood Control and Water Conservation District
3. City of Wildomar	
6. City of Menifee ¹	

The Cities of Murrieta, Menifee and Wildomar also discharge into the waters of the U.S. in the California Regional Water Quality Control Board, Santa Ana Region (Santa Ana Water Board), so are located partially within both the San Diego and Santa Ana Water Board boundaries. As allowed by California Water Code (CWC) §13228, these Cities submitted written requests to be regulated for MS4 purposes under a permit adopted by only one Water Board. As authorized by CWC §13228 and pursuant to a written agreement between the San Diego Water Board and the Santa Ana Water Board, the Cities of Murrieta and Wildomar are wholly regulated by the San Diego Water Board under this Order, including those portions of the Cities jurisdiction not within the San Diego Water Board’s region. Similarly, the City of Menifee is wholly regulated by the Santa Ana Water Board under Order No. R8-2010-0033, including those portions of the City of Menifee within the San Diego Water Board’s region.¹

C. DISCHARGE CHARACTERISTICS

- Discharges from the MS4 contain waste, as defined in the CWC, and pollutants that adversely affect the quality of the waters of the State. The discharge from an MS4 is a “discharge of pollutants from a point source” into waters of the U.S. as defined in the CWA.
- MS4 storm water and non-storm water discharges are likely to contain pollutants that cause or threaten to cause a violation of water quality standards, as outlined in the Basin Plan. Storm water and non-storm water discharges from the MS4 are subject

¹ Until an agreement is finalized, the City of Menifee is included as a Copermittee in this Order.

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to the conditions and requirements established in the Basin Plan for point source discharges.

3. The most common categories of pollutants in runoff include total suspended solids, sediment, pathogens (e.g., bacteria, viruses, protozoa), heavy metals (e.g., copper, lead, zinc and cadmium), petroleum products and polynuclear aromatic hydrocarbons, synthetic organics (e.g., pesticides, herbicides, and PCBs), nutrients (e.g., nitrogen and phosphorus fertilizers), oxygen-demanding substances (decaying vegetation, animal waste), detergents, and trash.
4. The discharge of pollutants and/or increased flows from MS4s may cause or threaten to cause the concentration of pollutants to exceed applicable receiving water quality objectives and/or impair or threaten to impair designated beneficial uses resulting in a condition of pollution (i.e., unreasonable impairment of water quality for designated beneficial uses), contamination, or nuisance.
5. Pollutants in runoff can threaten and adversely affect human health. Human illnesses have been clearly linked to recreating near storm drains flowing to receiving waters. Also, runoff pollutants in receiving waters can bioaccumulate in the tissues of invertebrates and fish, which may be eventually consumed by humans.
6. Runoff discharges from MS4s often contain pollutants that cause toxicity to aquatic organisms (i.e., adverse responses of organisms to chemicals or physical agents ranging from mortality to physiological responses such as impaired reproduction or growth anomalies). Toxic pollutants impact the overall quality of aquatic systems and beneficial uses of receiving waters.
7. The Copermittees discharge runoff into lakes, drinking water reservoirs, rivers, streams, creeks, bays, estuaries, coastal lagoons, the Pacific Ocean, and tributaries thereto within one of the eleven hydrologic units (Santa Margarita Hydrologic Unit) comprising the San Diego Region as shown in Table 2. Some of the receiving water bodies have been designated as impaired by the San Diego Water Board in 2009 pursuant to CWA section 303(d).

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Table 2. Common Watersheds and CWA Section 303(d) Impaired Waters in the San Diego Region.

Hydrologic Area (HA) or Hydrologic Subarea (HSA) of the Santa Margarita Hydrologic Unit	Major Receiving Water Bodies	303(d) Pollutant(s)/stressor or Water Quality Effect²
DeLuz Creek HSA (902.21)	De Luz Creek	Iron, Manganese, Nitrogen, Sulfates
Murrieta HSA (902.32)	Long Canyon Creek (tributary to Murrieta Creek)	Chlorpyrifos, E. Coli, Fecal Coliform, Iron, Manganese
Wolf HSA (902.52)	Murrieta Creek	Chlorpyrifos, Copper, Iron, Manganese, Nitrogen, Toxicity
Pauba HSA (902.51)	Redhawk Channel	Chlorpyrifos, Copper, Diazinon, E. Coli, Fecal Coliform, Iron, Manganese, Nitrogen, Phosphorus, Total Dissolved Solids
Gavilan HSA (902.22)	Sandia Creek	Iron, Sulfates
Gertrudis HSA (902.42)	Santa Gertrudis Creek	Chlorpyrifos, Copper, E. Coli, Fecal Coliform, Iron, Phosphorous
Lower Ysidora HSA (902.11)	Santa Margarita Lagoon	Eutrophic
Lower Ysidora HSA (902.11)	Santa Margarita River (Lower)	Enterococcus, Fecal Coliform, Phosphorus, Total Nitrogen as N
Gavilan HSA (902.22)	Santa Margarita River (Upper)	Toxicity
Pauba HSA (902.51)	Temecula Creek	Chlorpyrifos, Copper, Phosphorus, Total Dissolved Solids, Toxicity
French HSA (902.33)	Warm Springs Creek (Riverside County)	Chlorpyrifos, E. Coli, Fecal Coliform, Iron, Manganese, Phosphorus, Total Nitrogen as N

² The listed 303(d) pollutant(s) do not necessarily reflect impairment of the entire corresponding WMA or all corresponding major surface water bodies. The specific impaired portions of each WMA are listed in the State Water Resources Control Board's 2008 Section 303(d) List of Water Quality Limited Segments.

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8. Trash is a persistent pollutant that can enter receiving waters from the MS4, accumulate, and be transported downstream into receiving waters over time. Trash poses a serious threat to the beneficial uses of the receiving waters, including, but not limited to, human health, rare and endangered species, navigation and human recreation.
9. The Copermittees' water quality monitoring data submitted to date documents persistent violations of Basin Plan water quality objectives for various runoff-related pollutants (indicator bacteria, dissolved solids, turbidity, metals, pesticides, etc.) at various watershed monitoring stations. Persistent toxicity has also been observed at some watershed monitoring stations. In addition, bioassessment data indicate that the majority of the monitored receiving waters have Poor to Very Poor Index of Biotic Integrity ratings. In sum, the above findings indicate that runoff discharges are causing or contributing to water quality impairments, and are a leading cause of such impairments in Riverside County.
10. When natural vegetated pervious ground cover is converted to impervious surfaces such as paved highways, streets, rooftops, and parking lots, the natural absorption and infiltration abilities of the land are lost. Therefore, runoff leaving a developed area is significantly greater in runoff volume, velocity, and peak flow rate than pre-development runoff from the same area. Runoff durations can also increase as a result of flood control and other efforts to control peak flow rates. Increased volume, velocity, rate, and duration of runoff, and decreased natural clean sediment loads, greatly accelerate the erosion of downstream natural channels. Significant declines in the biological integrity and physical habitat of streams and other receiving waters have been found to occur with as little as a 3-5 percent conversion from natural to impervious surfaces. The increased runoff characteristics from new development must be controlled to protect against increased erosion of channel beds and banks, sediment pollutant generation, or other impacts to beneficial uses and stream habitat due to increased erosive force.
11. Development creates new pollution sources as human population density increases and brings with it proportionately higher levels of car emissions, car maintenance wastes, municipal sewage, pesticides, household hazardous wastes, pet wastes, trash, etc. which can either be washed or directly dumped into the MS4. As a result, the runoff leaving the developed urban area is significantly greater in pollutant load than the pre-development runoff from the same area. These increased pollutant loads must be controlled to protect downstream receiving water quality.
12. Development and urbanization especially threaten environmentally sensitive areas (ESAs), such as water bodies designated as supporting a RARE beneficial use (supporting rare, threatened or endangered species) and CWA 303(d)-impaired water bodies. Such areas have a much lower capacity to withstand pollutant loads than other, more sensitive areas. In essence, development that is ordinarily insignificant in its impact on the environment may become significant in a particularly sensitive environment. Therefore, additional controls to reduce storm water

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pollutants from new and existing development may be necessary for areas adjacent to or discharging directly to an ESA.

13. Although dependent on several factors, the risks typically associated with properly managed infiltration of runoff (especially from residential land use areas) are not significant. The risks associated with infiltration can be managed by many techniques, including (1) designing landscape drainage features that promote infiltration of runoff, but do not “inject” runoff (injection bypasses the natural processes of filtering and transformation that occur in the soil); (2) taking reasonable steps to prevent the illegal disposal of wastes; (3) protecting footings and foundations; (4) ensuring that each drainage feature is adequately maintained in perpetuity; and (5) pretreatment.
14. Non-storm water (dry weather) discharge from the MS4 is not considered a storm water (wet weather) discharge and therefore is not subject to regulation under the Maximum Extent Practicable (MEP) standard from CWA 402(p)(3)(B)(iii), which is explicitly for “Municipal ... *Stormwater Discharges* (emphasis added)” from the MS4. Rather, non-storm water discharges into the storm sewers, per CWA 402(p)(3)(B)(ii), are to be effectively prohibited. Such dry weather non-storm water discharges have been shown to contribute significant levels of pollutants and flow in arid, developed Southern California watersheds and are to be effectively prohibited under the CWA.
15. Non-storm water discharges to the MS4 granted an influent exception [i.e., which are exempt from the effective prohibition requirement set forth in CWA section 402(p)(3)(B)(ii)] under 40 CFR 122.26 are included within this Order. Any exempted discharges identified by Copermitees as a source of pollutants are subsequently required to be *addressed* (emphasis added) as illicit discharges through prohibition and incorporation into existing IC/ID programs. Furthermore, the USEPA contemplates that permitting agencies such as the San Diego Water Board may also identify exempted discharges as a source of pollutants required to be addressed as illicit discharges (See VOI. 55 Fed. Reg. 48037). The San Diego Water Board and the Copermitees have identified landscape irrigation, irrigation water and lawn water, previously exempted discharges, as a source of pollutants and conveyance of pollutants to waters of the U.S.

D. RUNOFF MANAGEMENT PROGRAMS**1. General**

- a. This Order specifies requirements necessary for the Copermitees to reduce the discharge of pollutants in storm water to the MEP. However, since MEP is a dynamic performance standard, which evolves over time as runoff management knowledge increases, the Copermitees’ runoff management programs must continually be assessed and modified to incorporate improved programs, control measures, best management practices (BMPs), etc. in order to achieve the

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evolving MEP standard. Absent evidence to the contrary, this continual assessment, revision, and improvement of runoff management program implementation is expected to ultimately achieve compliance with water quality standards in the Region.

- b. The Copermittees have generally been implementing the jurisdictional runoff management programs (JRMPs) required pursuant to Order No. R9-2004-001 since July 14, 2005. Prior to that, the Copermittees were regulated by Order No. 98-02, since May 13, 1998. MS4 discharges, however, continue to cause or contribute to violations of water quality standards as evidenced by the Copermittees' monitoring results.
- c. This Order contains new or modified requirements that are necessary to improve Copermittees' efforts to reduce the discharge of pollutants in storm water runoff to the MEP and achieve water quality standards. Some of the new or modified requirements, such as the revised Watershed Water Quality Workplan (Watershed Workplan) section, are designed to specifically address high priority water quality problems. Other requirements, such as for unpaved roads, are a result of San Diego Water Board's identification of water quality problems through investigations and complaints during the previous permit period. Other new or modified requirements address program deficiencies that have been noted during audits, report reviews, and other San Diego Water Board compliance assessment activities. Additional changes in the monitoring program provide consistency with the Code of Federal Regulations, USEPA guidance, State Water Board guidance, and the Southern California Monitoring Coalition recommendations.
- d. Updated individual Drainage Area Management Plans (DAMP), and Watershed Stormwater Management Plans (watershed SWMPs), which describe the Copermittees' runoff management programs in their entirety, are needed to guide the Copermittees' runoff management efforts and aid the Copermittees in tracking runoff management program implementation. Hereinafter, the individual DAMP is referred to as the JRMPs and the Watershed SWMP is referred to as the Watershed Workplan. It is practicable for the Copermittees to update the JRMPs and Watershed Workplans within the timeframe specified in this Order, since significant efforts to develop these programs have already occurred.
- e. Pollutants can be effectively reduced in storm water runoff by the application of a combination of pollution prevention, source control, and treatment control BMPs. Pollution prevention is the reduction or elimination of pollutant generation at its source and is the best "first line of defense." Source control BMPs (both structural and non-structural) minimize the contact between pollutants and flows (e.g., rerouting run-on around pollutant sources or keeping pollutants on-site and out of receiving waters). Treatment control BMPs remove pollutants that have been mobilized by wet-weather or dry-weather flows.

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- f. Runoff needs to be addressed during the three major phases of urban development (planning, construction, and use) in order to reduce the discharge of pollutants from storm water to the MEP, effectively prohibit non-storm water discharges and protect receiving waters. Development which is not guided by water quality planning policies and principles can unnecessarily result in increased pollutant load discharges, flow rates, and flow durations which can negatively impact receiving water beneficial uses. Construction sites without adequate BMP implementation result in sediment runoff rates which greatly exceed natural erosion rates of undisturbed lands, causing siltation and impairment of receiving waters. Existing development generates substantial pollutant loads which are discharged in runoff to receiving waters.
- g. Annual reporting requirements included in this Order are necessary to meet federal requirements and to evaluate the effectiveness and compliance of the Copermittees' programs.
- h. This Order establishes Storm Water Action Levels (SALs) for selected pollutants based on USEPA Rain Zone 6 (arid southwest) Phase I MS4 monitoring data for pollutants in storm water. The SALs were computed as the 90th percentile of the data set, utilizing the statistical based population approach, one of three approaches recommended by the State Water Board's Storm Water Panel in its report, 'The Feasibility of Numerical Effluent Limits Applicable to Discharges of Storm Water Associated with Municipal, Industrial and Construction Activities (June 2006). SALs are identified in Section D of this Order. Copermittees must implement a timely, comprehensive, cost-effective storm water pollution control program to reduce the discharge of pollutants in storm water from the permitted areas so as not to exceed the SALs. Exceedance of SALs may indicate inadequacy of programmatic measures and BMPs required in this Order.

2. Development Planning

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

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- b. Controlling runoff pollution by using a combination of onsite source control and site design BMPs augmented with treatment control BMPs before the runoff enters the MS4 is important for the following reasons: (1) Many end-of-pipe BMPs (such as diversion to the sanitary sewer) are typically ineffective during significant storm events. (2) Whereas, onsite source control BMPs can be applied during all runoff conditions end-of-pipe BMPs are often incapable of capturing and treating the wide range of pollutants which can be generated on a sub-watershed scale; (3) End-of-pipe BMPs are more effective when used as polishing BMPs, rather than the sole BMP to be implemented; (4) End-of-pipe BMPs do not protect the quality or beneficial uses of receiving waters between the pollutant source and the BMP; and (5) Offsite end-of-pipe BMPs do not aid in the effort to educate the public regarding sources of pollution and their prevention.
- c. Use of Low-Impact Development (LID) site design BMPs at new development, redevelopment and retrofit projects can be an effective means for minimizing the impact of storm water runoff discharges from the development projects on receiving waters. LID is a site design strategy with a goal of maintaining or replicating the pre-development hydrologic regime through the use of design techniques. LID site design BMPs help preserve and restore the natural hydrologic cycle of the site, allowing for filtration and infiltration which can greatly reduce the volume, peak flow rate, velocity, and pollutant loads of storm water runoff. Current runoff management, knowledge, practices and technology have resulted in the use of LID BMPs as an acceptable means of meeting the storm water MEP standard.
- d. RGOs are significant sources of pollutants in storm water runoff. RGOs are points of convergence for motor vehicles for automotive related services such as repair, refueling, tire inflation, and radiator fill-up and consequently produce significantly higher loadings of hydrocarbons and trace metals (including copper and zinc) than other developed areas.
- e. Industrial sites are significant sources of pollutants in runoff. Pollutant concentrations and loads in runoff from industrial sites are similar or exceed pollutant concentrations and loads in runoff from other land uses, such as commercial or residential land uses. As with other land uses, LID site design, source control, and treatment control BMPs are needed at industrial sites in order to meet the MEP standard. These BMPs are necessary where the industrial site is larger than 10,000 square feet. The 10,000 square feet threshold is appropriate, since it is consistent with requirements in other Phase I NPDES storm water regulations throughout California.
- f. If not properly designed or maintained, certain BMPs implemented or required by municipalities for runoff management may create a habitat for vectors (e.g. mosquitoes and rodents). Proper BMP design and maintenance to avoid standing water, however, can prevent the creation of vector habitat. Nuisances

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and public health impacts resulting from vector breeding can be prevented with close collaboration and cooperative effort between municipalities, local vector control agencies, and the California Department of Public Health during the development and implementation of runoff management programs.

- g. The increased volume, velocity, frequency and discharge duration of storm water runoff from developed areas has the potential to greatly accelerate downstream erosion, impair stream habitat in natural drainages, and negatively impact beneficial uses. Development and urbanization increase pollutant loads in storm water runoff and the volume of storm water runoff. Impervious surfaces can neither absorb water nor remove pollutants and thus lose the purification and infiltration provided by natural vegetated soil. Hydromodification measures for discharges to hardened channels are needed for the future restoration of the hardened channels to their natural state, thereby restoring the chemical, physical, and biological integrity and beneficial uses of local receiving waters.

3. Construction and Existing Development

- a. In accordance with federal NPDES regulations and to ensure the most effective oversight of industrial and construction site discharges, discharges of runoff from industrial and construction sites are subject to dual (State and local) storm water regulation. Under this dual system, each Copermittee is responsible for enforcing its local permits, plans, and ordinances, and the San Diego Water Board is responsible for enforcing the General Construction Activities Storm Water Permit, State Water Board Order 2009-0009-DWQ, NPDES No. CAS000002 (General Construction Permit) and the General Industrial Activities Storm Water Permit, State Water Board Order 97-03 DWQ, NPDES No. CAS000001 (General Industrial Permit) and any reissuance of these permits. NPDES municipal regulations require that municipalities develop and implement measures to address runoff from industrial and construction activities. Those measures may include the implementation of other BMPs in addition to those BMPs that are required under the statewide general permits for activities subject to both State and local regulation.
- b. Identification of sources of pollutants in runoff (such as municipal areas and activities, industrial and commercial sites/sources, construction sites, and residential areas), development and implementation of BMPs to address those sources, and updating ordinances and approval processes are necessary for the Copermittees to ensure that discharges of pollutants from its MS4 in storm water are reduced to the MEP and that non-storm water discharges are not occurring. Inspections and other compliance verification methods are needed to ensure minimum BMPs are implemented. Inspections are especially important at areas that are at high risk for pollutant discharges.

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- c. Historic and current development makes use of natural drainage patterns and features as conveyances for runoff. Urban streams used in this manner are part of the municipalities' MS4s regardless of whether they are natural, anthropogenic, or partially modified features. In these cases, the urban stream is both an MS4 and receiving water.
- d. As operators of the MS4s, the Copermittees cannot passively receive and discharge pollutants from third parties. By providing free and open access to an MS4 that conveys discharges to waters of the U.S., the operator essentially accepts responsibility for discharges into the MS4 that it does not prohibit or otherwise control. These discharges may cause or contribute to a condition of contamination or a violation of water quality standards.
- e. Waste and pollutants which are deposited and accumulate in MS4 drainage structures will be discharged from these structures to waters of the U.S. unless they are removed. These discharges may cause or contribute to, or threaten to cause or contribute to, a condition of pollution in receiving waters. For this reason, pollutant discharges from storm water into MS4s must be reduced using a combination of management measures, including source control and an effective MS4 maintenance program implemented by each Copermittee.
- f. Enforcement of local runoff related ordinances, permits, and plans is an essential component of every runoff management program and is specifically required in the federal storm water regulations and this Order. Each Copermittee is individually responsible for adoption and enforcement of ordinances and/or policies, implementation of identified control measures/BMPs needed to prevent or reduce pollutants in storm water runoff, and for the allocation of funds for the capital, operation and maintenance, administrative, and enforcement expenditures necessary to implement and enforce such control measures/BMPs under its jurisdiction. Education is an important aspect of every effective runoff management program and the basis for changes in behavior at a societal level. Education of municipal planning, inspection, and maintenance department staffs is especially critical to ensure that in-house staffs understand how their activities impact water quality, how to accomplish their jobs while protecting water quality, and understand their specific roles and responsibilities for compliance with this Order. Public education, designed to target various urban land users and other audiences, is also essential to inform the public of how individual actions affect receiving water quality and how adverse effects can be minimized.
- g. Public participation during the development of runoff management programs is necessary to ensure that all stakeholder interests and a variety of creative solutions are considered.
- h. Retrofitting existing development with storm water treatment controls, including LID, is necessary to address storm water discharges from existing development that may cause or contribute to a condition of pollution or a violation of water

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quality standards. Although SSMP BMPs are required for redevelopment, the current rate of redevelopment will not address water quality problems in a timely manner. Cooperation with private landowners is necessary to effectively identify, implement and maintain retrofit projects for the preservation, restoration, and enhancement of water quality.

4. Watershed Runoff Management

- a. Since runoff within a watershed can flow from and through multiple land uses and political jurisdictions, watershed-based runoff management can greatly enhance the protection of receiving waters. Such management provides a means to focus on the most important water quality problems in each watershed. By focusing on the most important water quality problems, watershed efforts can maximize protection of beneficial use in an efficient manner. Effective watershed-based runoff management actively reduces pollutant discharges and abates pollutant sources causing or contributing to watershed water quality problems. Watershed-based runoff management that does not actively reduce pollutant discharges and abate pollutant sources causing or contributing to watershed water quality problems can necessitate implementation of the iterative process outlined in section A.3 of this Order. Watershed management of runoff does not require Copermittees to expend resources outside of their jurisdictions. In some cases, however, this added flexibility provides more, and possibly more effective, alternatives for minimizing waste discharges. Watershed management requires the Copermittees within a watershed to develop a watershed-based management strategy, which can then be implemented on a jurisdictional basis.
- b. Some runoff issues, such as general education and training, can be effectively addressed on a regional basis. Regional approaches to runoff management can improve program consistency and promote sharing of resources, which can result in implementation of more efficient programs.
- c. It is important for the Copermittees to coordinate their water quality protection and land use planning activities to achieve the greatest protection of receiving water bodies. Copermittee coordination with other watershed stakeholders, especially the State of California Department of Transportation, the U.S. federal government, sovereign American Indian tribes, and water and sewer districts, is also important.

E. STATUTE AND REGULATORY CONSIDERATIONS

1. The RWL language specified in this Order is consistent with language recommended by the USEPA and established in State Water Board Order WQ-99-05, *Own Motion Review of the Petition of Environmental Health Coalition to Review Waste Discharge Requirements Order No. 96-03, NPDES Permit No. CAS0108740*, adopted by the

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State Water Board on June 17, 1999. The RWL language in this Order requires compliance with water quality standards, which for storm water discharges is to be achieved through an iterative approach requiring the implementation of improved and better-tailored BMPs over time. Compliance with receiving water limits based on applicable water quality standards is necessary to ensure that MS4 discharges will not cause or contribute to violations of water quality standards and the creation of conditions of pollution, contamination, or nuisance.

2. The Basin Plan, identifies the following existing and potential beneficial uses for surface waters in Riverside County: Municipal and Domestic Supply (MUN), Agricultural Supply (AGR), Industrial Process Supply (PROC), Hydropower Generation (POW), Industrial Service Supply (IND), Ground Water Recharge (GWR), Contact Water Recreation (REC1), Non-contact Water Recreation (REC2), Warm Freshwater Habitat (WARM), Cold Freshwater Habitat (COLD), Wildlife Habitat (WILD), Rare, Threatened, or Endangered Species (RARE), Spawning, Reproduction and/or Early Development (SPWN) and Preservation of Biological Habitats of Special Significance (BIOL).
3. This Order is in conformance with State Water Board Resolution No. 68-16, *Statement of Policy with Respect to Maintaining High Quality Waters in California*, and the federal Antidegradation Policy described in 40 CFR 131.12.
4. Section 6217(g) of the Coastal Zone Act Reauthorization Amendments of 1990 (CZARA) requires coastal states with approved coastal zone management programs to address non-point pollution impacting or threatening coastal water quality. CZARA addresses five sources of non-point pollution: agriculture, silviculture, urban, marinas, and hydromodification. This NPDES permit addresses the management measures required for the urban category, with the exception of septic systems. The adoption and implementation of this NPDES permit relieves the Copermitttee from developing a non-point source plan, for the urban category, under CZARA. The San Diego Water Board addresses septic systems through the administration of other programs.
5. Section 303(d)(1)(A) of the CWA requires that “Each state shall identify those waters within its boundaries for which the effluent limitations...are not stringent enough to implement any water quality standard (WQS) applicable to such waters.” The CWA also requires states to establish a priority ranking of impaired water bodies known as Water Quality Limited Segments and to establish Total Maximum Daily Loads (TMDLs) for such waters. This priority list of impaired water bodies is called the Section 303(d) List. The 2006 Section 303(d) List was approved by the State Water Board on October 25, 2006. On June 28, 2007, the 2006 303(d) list for California was given final approval by the USEPA. The 303(d) List was recently updated, and on December 16, 2009, the 2008 303(d) List was approved by the San Diego Water Board. The 2008 List is awaiting State Water Board and USEPA approval.

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6. This Order does not constitute an unfunded local government mandate subject to subvention under Article XIII B, Section (6) of the California Constitution for several reasons, including, but not limited to, the following. First, this Order implements federally mandated requirements under CWA §402. (33 U.S.C. § 1342(p)(3)(B).) Second, the local agency Copermittees' obligations under this Order are similar to, and in many respects less stringent than, the obligations of non-governmental and new dischargers who are issued NPDES permits for storm water and non-storm water discharges. Third, the local agency Copermittees have the authority to levy service charges, fees, or assessments sufficient to pay for compliance with this Order. Fourth, the Copermittees have requested permit coverage in lieu of compliance with the complete prohibition against the discharge of pollutants contained in CWA §301, subdivision (a) (33 U.S.C. § 1311(a)) and in lieu of numeric restrictions on their MS4 discharges (i.e. effluent limitations). Fifth, the local agencies' responsibility for preventing discharges of waste that can create conditions of pollution or nuisance from conveyances that are within their ownership or control under State law predates the enactment of Article XIII B, Section (6) of the California Constitution. Likewise, the provisions of this Order to implement TMDLs are federal mandates. The CWA requires TMDLs to be developed for water bodies that do not meet federal water quality standards. (33 U.S.C. sec. 1313(d).) Once the USEPA or a state develops a TMDL, federal law requires that permits must contain effluent limitations consistent with the assumptions of any applicable wasteload allocation. (40 C.F.R. sec. 122.44(d)(1)(vii)(B).)
7. Runoff treatment and/or mitigation must occur prior to the discharge of runoff into receiving waters. Treatment BMPs must not be constructed in waters of the U.S. or State unless the runoff flows are sufficiently pretreated to protect the values and functions of the water body. Federal regulations at 40 CFR 131.10(a) state that in no case shall a state adopt waste transport or waste assimilation as a designated use for any waters of the U.S. Authorizing the construction of an runoff treatment facility within a water of the U.S., or using the water body itself as a treatment system or for conveyance to a treatment system, would be tantamount to accepting waste assimilation as an appropriate use for that water body. Furthermore, the construction, operation, and maintenance of a pollution control facility in a water body can negatively impact the physical, chemical, and biological integrity, as well as the beneficial uses, of the water body. Without federal authorization (e.g., pursuant to CWA § 404), waters of the U.S. may not be converted into, or used as, waste treatment or conveyance facilities. Similarly, waste discharge requirements pursuant to CWC §13260 are required for the conversion or use of waters of the State as waste treatment or conveyance facilities. Diversion from waters of the U.S./State to treatment facilities and subsequent return to waters of the U.S. is allowable, provided that the effluent complies with applicable NPDES requirements.

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8. The issuance of waste discharge requirements and an NPDES permit for the discharge of runoff from MS4s to waters of the U.S. is exempt from the requirement for preparation of environmental documents under the California Environmental Quality Act (CEQA) (Public Resources Code, Division 13, Chapter 3, section 21000 et seq.) in accordance with the CWC section 13389.
9. Storm water discharges from developed and developing areas in Riverside County are significant sources of certain pollutants that cause, may be causing, threatening to cause or contributing to water quality impairment in the waters of Riverside County. Furthermore, as delineated in the CWA section 303(d) list in Table 2, the San Diego Water Board has found that there is a reasonable potential that municipal storm water and non-storm water discharges from MS4s cause or may cause or contribute to an excursion above water quality standards for the following pollutants: Indicator Bacteria, Copper, Manganese, Iron, Chlorpyrifos, Sulfates, Phosphorous, Nitrogen, Toxicity, and Turbidity. In accordance with CWA section 303(d), the San Diego Water Board is required to establish TMDLs for these pollutants to these waters to eliminate impairment and attain water quality standards. Therefore, certain early pollutant control actions and further pollutant impact assessments by the Copermittees are warranted and required pursuant to this Order.
10. This Order requires each Copermittee to effectively prohibit all types of unauthorized discharges of non-storm water into its MS4. However, historically pollutants have been identified as present in dry weather non-storm water discharges from the MS4s through 303(d) listings, monitoring conducted by the Copermittees under Order No. R9-2004-0001, and there are others expected to be present in dry weather non-storm water discharges because of the nature of these discharges. This Order includes action levels for pollutants in non-storm water, dry weather discharges from the MS4. The non-storm water action levels are designed to ensure that the Order's requirement to effectively prohibit all types of unauthorized discharges of non-storm water into the MS4 is being complied with. Non-storm water action levels in the Order are based upon numeric or narrative water quality objectives and criteria as defined in the Basin Plan, the State Water Board's Water Quality Control Plan for Ocean Waters of California (Ocean Plan), and the State Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (State Implementation Policy or SIP). An exceedance of an action level requires specified responsive action by the Copermittees. This Order describes what actions the Copermittees must take when an exceedance of an action level is observed. Exceedances of non-storm water action levels do not alone constitute a violation of this Order but could indicate non-compliance with the requirement to effectively prohibit all types of unauthorized non-storm water discharges into the MS4 or other prohibitions established in this Order. Failure to undertake required source investigation and elimination action following an exceedance of a non-storm water action level (NAL or action level) is a violation of this Order. The San Diego Water Board recognizes that use of action levels will not necessarily result in detection of all unauthorized sources of non-storm water discharges because there may be some discharges in which pollutants do not exceed established action

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levels. However, establishing NALs at levels appropriate to protect water quality standards is expected to lead to the identification of significant sources of pollutants in dry weather non-storm water discharges.

11. In addition to federal regulations cited in the Fact Sheet / Technical Report for the Order No. R9-2010-0016, monitoring and reporting required under Order No. R9-2010-0016 is required pursuant to authority under CWC section 13383.
12. With this Order, the San Diego Water Board has completed the re-issuance of the fourth iteration of the Phase I MS4 NPDES Permits for the Copermittees in the portions of San Diego County, Orange County, and Riverside County within the San Diego Region. The NPDES Permit requirements issued to the Copermittees in each county have substantially the same core requirements such as discharge prohibitions, receiving water limitations, jurisdictional components, and monitoring. In addition, the Copermittees cooperate regionally to develop monitoring with the Southern California Stormwater Monitoring Coalition and to develop program effectiveness with the California Stormwater Quality Association. Regional programs could improve the Copermittees' compliance with other permit components such as development of the Hydromodification Management Plans and Retrofitting Existing Development with more consistent implementation and cost sharing. Re-issuing the NPDES Permit requirements within five years for three counties under three different permits requires the San Diego Water Board to expend significant time and resources for issuance of the permits through three separate public proceedings, thereby greatly reducing the time and resources available to oversee compliance. Multiple permits also create confusion for determining compliance among regulated entities, especially the land development community. The San Diego Water Board recognizes that issuing a single MS4 permit for all Phase I entities in the San Diego Region will provide consistent implementation, improve communication among agencies within watersheds crossing multiple jurisdictions, and minimize staff resources spent with each permit renewal. The San Diego Water Board plans to develop a single regional MS4 permit prior to the expiration of this Order that will transfer the Copermittees' enrollment to the regional permit upon expiration of this Order.

F. PUBLIC PROCESS

1. The San Diego Water Board has notified the Copermittees, all known interested parties, and the public of its intent to consider adoption of an Order prescribing waste discharge requirements that would serve to renew an NPDES permit for the existing MS4 discharges of pollutants in waters of the U.S.
2. The San Diego Water Board has held a public hearing on October 13, 2010 and heard and considered all comments pertaining to the terms and conditions of this Order.

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IT IS HEREBY ORDERED that the Copermittees, in order to meet the provisions contained in Division 7 of the CWC and regulations adopted thereunder, and the provisions of the CWA and regulations adopted thereunder, must each comply with the following:

A. PROHIBITIONS AND RECEIVING WATER LIMITATIONS

1. Discharges into and from MS4s in a manner causing, or threatening to cause, a condition of pollution, contamination, or nuisance (as defined in CWC section 13050), in receiving waters of the state are prohibited.³
2. Storm water discharges from MS4s containing pollutants which have not been reduced to the MEP are prohibited.³
3. Discharges from MS4s that cause or contribute to the violation of water quality standards (designated beneficial uses, water quality objectives developed to protect beneficial uses, and the State policy with respect to maintaining high quality waters) are prohibited.
 - a. Each Copermittee must comply with section A.3 and section A.4 as it applies to Prohibition 5 in Attachment A of this Order through timely implementation of control measures and other actions to reduce pollutants in storm water discharges in accordance with this Order, including any modifications. If exceedance(s) of water quality standards persist notwithstanding implementation of this Order, the Copermittee must assure compliance with section A.3 and section A.4 as it applies to Prohibition 5 in Attachment A of this Order by complying with the following procedure:
 - (1) Upon a determination by either the Copermittee or the San Diego Water Board that storm water MS4 discharges are causing or contributing to an exceedance of an applicable water quality standard, the Copermittee must notify the San Diego Water Board within 30 days and thereafter submit a report to the San Diego Water Board that describes best management practices (BMPs) that are currently being implemented and additional BMPs that will be implemented to prevent or reduce any pollutants that are causing or contributing to the exceedance of water quality standards. The report may be incorporated in the Annual Report unless the San Diego Water Board⁴ directs an earlier submittal. The report must include an

³ This prohibition does not apply to MS4 discharges which receive subsequent treatment to reduce pollutants in storm water discharges to the MEP prior to entering receiving waters (e.g., low flow diversions to the sanitary sewer). Runoff treatment and/or mitigation must occur prior to the discharge of runoff into receiving waters per finding E.7.

⁴ The San Diego Water Board by prior resolution has delegated all matters that may legally be delegated to its Executive Officer to act on its behalf pursuant to CWC §13223. Therefore, the Executive Officer is

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implementation schedule. The San Diego Water Board may require modifications to the report

- (2) Submit any modifications to the report required by the San Diego Water Board within 30 days of notification;
 - (3) Within 30 days following acceptance of the report described above by the San Diego Water Board, the Copermittee must revise its JRMP and monitoring program to incorporate the approved modified BMPs that have been and will be implemented, the implementation schedule, and any additional monitoring required; and
 - (4) Implement the revised JRMP and monitoring program in accordance with the approved schedule.
- b. The Copermittee must repeat the procedure set forth above to comply with the receiving water limitations for continuing or recurring exceedances of the same water quality standard(s) following implementation of scheduled actions unless directed to do otherwise by the San Diego Water Board's Executive Officer.
 - c. Nothing in section A.3 prevents the San Diego Water Board from enforcing any provision of this Order while the Copermittee prepares and implements the above report.
4. In addition to the above prohibitions, discharges from MS4s are subject to all Basin Plan prohibitions cited in Attachment A to this Order.

B. NON-STORM WATER DISCHARGES

1. Each Copermittee must effectively prohibit all types of non-storm water discharges into its MS4 unless such discharges are either authorized by a separate NPDES permit; or not prohibited in accordance with sections B.2 and B.3 below.
2. The following categories of non-storm water discharges are not prohibited unless a Copermittee or the San Diego Water Board identifies the discharge category as a source of pollutants to waters of the U.S. Where the Copermittee(s) have identified a category as a source of pollutants, the category must be addressed as an illicit discharge and prohibited through ordinance, order or similar means. The San Diego Water Board may identify categories of discharge that either require prohibition, or other controls for non-anthropogenic sources. For a discharge category determined to be a source of pollutants, the Copermittee, under direction of the San Diego Water Board, must either prohibit the discharge category or develop and implement

authorized to act on the San Diego Water Board's behalf on any matter within this Order unless such delegation is unlawful under CWC §13223 or this Order explicitly states otherwise.

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appropriate control measures for non-anthropogenic sources to prevent the discharge of pollutants to the MS4 and report to the San Diego Water Board pursuant to Section K.1 and K.3 of this Order. The discharge categories are:

- a. Diverted stream flows;
 - b. Rising ground waters;
 - c. Uncontaminated ground water infiltration [as defined at 40 CFR 35.2005(20)] to MS4s;
 - d. Uncontaminated pumped ground water⁵;
 - e. Foundation drains⁵;
 - f. Springs;
 - g. Water from crawl space pumps⁵;
 - h. Footing drains⁵;
 - i. Air conditioning condensation;
 - j. Flows from riparian habitats and wetlands;
 - k. Water line flushing^{6,7};
 - l. Discharges from potable water sources not subject to NPDES Permit No. CAG679001, other than water main breaks;
 - m. Individual residential car washing; and
 - n. Dechlorinated swimming pool discharges⁸.
3. Emergency fire fighting flows (i.e., flows necessary for the protection of life or property) do not require BMPs and need not be prohibited.
- a. As part of the JRMP, each Copermittee must develop and implement a program to address pollutants from non-emergency fire fighting flows (i.e., flows from controlled or practice blazes and maintenance activities) identified as significant sources of pollutants to waters of the U.S.
 - b. Building fire suppression system maintenance discharges (e.g. sprinkler line flushing) contain waste. Therefore, such discharges are to be prohibited by the Copermittees as illicit discharges through ordinance, order, or similar means.
4. Each Copermittee must examine all dry weather effluent analytical monitoring results collected in accordance with section F.4 of this Order and Receiving Waters and MS4 Discharge Monitoring and Reporting Program No. R9-2010-0016 to identify water quality problems which may be the result of any non-prohibited discharge category(ies) identified above in section B.2. Follow-up investigations must be conducted to identify and control, pursuant to section B.2, any non-prohibited discharge category(ies) listed above.

⁵ Requires enrollment under Order R9-2008-002. Discharges into the MS4 require authorization from the owner and operator of the MS4 system.

⁶ This exemption does not include fire suppression sprinkler system maintenance and testing discharges. Those discharges may be regulated under Section B.3.

⁷ Requires enrollment under Order R9-2002-0020.

⁸ Excluding saline swimming pool discharges.

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1. Each Copermittee, beginning no later than July 1, 2012, must implement the non-storm water dry weather action level (NAL) monitoring as described in Attachment E of this Order.
2. In response to an exceedance of an NAL, the Copermittee(s) having jurisdiction must investigate and identify the source of the exceedance in a timely manner. However, if any Copermittee identifies a number of NAL exceedances that prevents it from adequately conducting source investigations at all sites in a timely manner, then that Copermittee may submit a prioritization plan and timeline that identifies the timeframe and planned actions to investigate and report its findings on all of the exceedances. Depending on the source of the pollutant exceedance, the Copermittee(s) having jurisdiction must take action as follows:
 - a. If the Copermittee identifies the source of the exceedance as natural (non-anthropogenically influenced) in origin and in conveyance into the MS4; then the Copermittee must report its findings and documentation of its source investigation to the San Diego Water Board in its Annual Report.
 - b. If the Copermittee identifies the source of the exceedance as an illicit discharge or connection, then the Copermittee must eliminate the discharge to its MS4 pursuant to Section F.4.f and report the findings, including any enforcement action(s) taken, and documentation of the source investigation to the San Diego Water Board in the Annual Report. If the Copermittee is unable to eliminate the source of discharge prior to the Annual Report submittal, then the Copermittee must submit, as part of its Annual Report, its plan and timeframe to eliminate the source of the exceedance. Those dischargers seeking to continue such a discharge must become subject to a separate NPDES permit prior to continuing any such discharge.
 - c. If the Copermittee identifies the source of the exceedance as an exempted category of non-storm water discharge, then the Copermittees must determine if this is an isolated circumstance or if the category of discharges must be addressed through the prevention or prohibition of that category of discharge as an illicit discharge. The Copermittee must submit its findings including a description of the steps taken to address the discharge and the category of discharge, to the San Diego Water Board for review in its Annual Report. Such description must include relevant updates to or new ordinances, orders, or other legal means of addressing the category of discharge, and the anticipated schedule for doing so. The Copermittees must also submit a summary of its findings with the Report of Waste Discharge.
 - d. If the Copermittee identifies the source of the exceedance as a non-storm water discharge in violation or potential violation of an existing separate NPDES permit

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- (e.g. the groundwater dewatering permit), then the Copermittee must report, within three business days, the findings to the San Diego Water Board including all pertinent information regarding the discharger and discharge characteristics.
- e. If the Copermittee is unable to identify the source of the exceedance after taking and documenting reasonable steps to do so, then the Copermittee must perform additional focused sampling. If the results of the additional sampling indicate a recurring exceedance of NALs with an unidentified source, then the Copermittee must update its programs within a year to address the common contributing sources that may be causing such an exceedance. The Copermittee's annual report must include these updates to its programs including, where applicable, updates to their watershed workplans (Section G.2), retrofitting consideration (Section F.3.d) and program effectiveness work plans (Section J.4).
 - f. The Copermittees or any interested party, may evaluate existing NALs and propose revised NALs for future Board consideration.
3. NALs can help provide an assessment of the effectiveness of the prohibition of non-storm water discharges and of the appropriateness of exempted non-storm water discharges. An exceedance of an NAL does not alone constitute a violation of the provisions of this Order. An exceedance of an NAL may indicate a lack of compliance with the requirement that Copermittees effectively prohibit all types of unauthorized non-storm water discharges into the MS4 or other prohibitions set forth in Sections A and B of this Order. Failure to timely implement required actions specified in this Order following an exceedance of an NAL constitutes a violation of this Order. Neither the absence of exceedances of NALs nor compliance with required actions following observed exceedances, excuses any non-compliance with the requirement to effectively prohibit all types of unauthorized non-storm water discharges into the MS4s or any non-compliance with the prohibitions in Sections A and B of this Order. During any annual reporting period in which one or more exceedances of NALs have been documented the Copermittee must report in response to Section C.2 above, a description of whether and how the observed exceedances did or did not result in a discharge from the MS4 that caused, or threatened to cause or contribute to a condition of pollution, contamination, or nuisance in the receiving waters.
4. Monitoring of effluent will occur at the end-of-pipe prior to discharge into the receiving waters, with a focus on Major Outfalls, as defined in 40 CFR 122.26(B 5-6) and Attachment E of this Order. The Copermittees must develop their monitoring plans to sample a representative percentage of major outfalls and identified stations within each hydrologic subarea. At a minimum, outfalls that exceed any NALs once during any year must be monitored in the subsequent year. Any station that does not exceed an NAL, or only has exceedances that are identified as natural in origin and conveyance into the MS4 pursuant to Section C.2.a, for 3 successive years may be replaced with a different station.

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5. Each Copermittee must monitor for the non-storm water dry weather action levels, which are incorporated into this Order as follows:
- a. Action levels for discharges to inland surface waters:

Table 3.a.1: General Constituents

Parameter	Units	AMAL	MDAL	Instantaneous Maximum	Basis
Fecal Coliform	MPN/ 100 ml	200 ^A 400 ^B	-		BPO
Enterococci	MPN/ 100 ml	33	-	61 ^C	BPO
Turbidity	NTU	-	20		BPO
pH	Units	Within limit of 6.5 to 8.5 at all times			BPO
Dissolved Oxygen	mg/L	Not less than 5.0 in WARM waters and not less than 6.0 in COLD waters			BPO
Total Nitrogen	mg/L	-	1.0	See MDAL	BPO
Total Phosphorus	mg/L	-	0.1	See MDAL	BPO
Methylene Blue Active Substances	mg/L	-	0.5	See MDAL	BPO
Iron	mg/L	-	0.3	See MDAL	BPO
Manganese	mg/L	-	0.05	See MDAL	BPO

A – Based on a minimum of not less than five samples for any 30-day period

B – No more than 10 percent of total samples may exceed 400 per 100 ml during any 30 day period

C – This Value has been set to Basin Plan Criteria for Designated Beach Areas

BPO – Basin Plan Objective

MDAL – Maximum Daily Action Level

AMAL – Average Monthly Action Level

Table 3.a.2: Priority Pollutants

Parameter	Units	Freshwater (CTR)	
		MDAL	AMAL
Cadmium	ug/L	**	**
Copper	ug/L	*	*
Chromium III	ug/L	**	**
Chromium VI (hexavalent)	ug/L	16	8.1
Lead	ug/L	*	*
Nickel	ug/L	**	**
Silver	ug/L	*	*
Zinc	ug/L	*	*

CTR – California Toxic Rule

*- Action Levels developed on a case-by-case basis (see below)

** - Action Levels developed on a case-by-case basis (see below), but calculated criteria are not to exceed Maximum Contaminant Levels under the California Code of Regulations⁹

The NALs for Cadmium, Copper, Chromium (III), Lead, Nickel, Silver and Zinc will be developed on a case-by-case basis because the freshwater criteria are based on

⁹ California Code of Regulations, Title 22, Division 4, Chapter 15, Article 4, Section 64431.

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site-specific water quality data (receiving water hardness). For these priority pollutants, the following equations (40 CFR 131.38.b.2) will be required:

Cadmium (Total Recoverable)	= $\exp(0.7852[\ln(\text{hardness})] - 2.715)$
Chromium III (Total Recoverable)	= $\exp(0.8190[\ln(\text{hardness})] + .6848)$
Copper (Total Recoverable)	= $\exp(0.8545[\ln(\text{hardness})] - 1.702)$
Lead (Total Recoverable)	= $\exp(1.273[\ln(\text{hardness})] - 4.705)$
Nickel (Total Recoverable)	= $\exp(.8460[\ln(\text{hardness})] + 0.0584)$
Silver (Total Recoverable)	= $\exp(1.72[\ln(\text{hardness})] - 6.52)$
Zinc (Total Recoverable)	= $\exp(0.8473[\ln(\text{hardness})] + 0.884)$

D. STORM WATER ACTION LEVELS

1. The Copermittees must implement the Wet Weather MS4 Discharge Monitoring as described in Attachment E of this Order, and beginning three years after the Order adoption date, the Copermittees must annually evaluate their data compared to the Stormwater Action Levels (SALs). At each monitoring station, a running average of twenty percent or greater of exceedances of any discharge of storm water from the MS4 to waters of the U.S. that exceed the SALs for each of the pollutants listed in Table 4 (below) requires the Copermittee(s) having jurisdiction to affirmatively augment and implement all necessary storm water controls and measures to reduce the discharge of the associated class of pollutants(s) to the MEP. The Copermittees must utilize the exceedance information when adjusting and executing annual work plans, as required by this Order. Copermittees must take the magnitude, frequency, and number of constituents exceeding the SAL(s), in addition to receiving water quality data and other information, into consideration when prioritizing and reacting to SAL exceedances in an iterative manner. Failure to appropriately consider and react to SAL exceedances in an iterative manner creates a presumption that the Copermittee(s) have not reduced pollutants in storm water discharges to the MEP.

Table 4. Storm Water Action Levels

Pollutant	Action Level
Turbidity (NTU)	126
Nitrate & Nitrite total (mg/L)	2.6
P total (mg/L)	1.46
Cd total ($\mu\text{g/L}$)	3.0
Cu total ($\mu\text{g/L}$)	127
Pb total ($\mu\text{g/L}$)	250
Zn total ($\mu\text{g/L}$)	976

2. The end-of-pipe assessment points for the determination of SAL compliance are all major outfalls, as defined in 40 CFR 122.26(b)(5) and (b)(6). The Copermittees must develop their monitoring plans to sample a representative percentage of the major outfalls within each hydrologic subarea. At a minimum, outfalls that exceed SALs must be monitored in the subsequent year. Any station that does not exceed

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an SAL for 3 successive years may be replaced with a different station. SAL samples must be 24 hour time-weighted composites.

3. The absence of SAL exceedances does not relieve the Copermittees from implementing all other required elements of this Order.
4. This Order does not regulate natural sources and conveyances into the MS4 of constituents listed in Table 5. To be relieved of the requirements to take action as described in D.1 above, the Copermittee must demonstrate that the likely and expected cause of the SAL exceedance is not anthropogenic in nature. This demonstration does not need to be repeated for subsequent exceedances of the same SAL at the same monitoring station.
5. The SALs will be reviewed and updated at the end of every permit cycle. The data collected pursuant to D.2 above and Attachment E can be used to create SALs based upon local data. The purpose of establishing the SALs is that through the iterative and MEP process, outfall storm water discharges will meet all applicable water quality standards.

E. LEGAL AUTHORITY

1. Each Copermittee must establish, maintain, and enforce adequate legal authority to control pollutant discharges into and from its MS4 through ordinance, statute, permit, contract or similar means. Nothing herein shall authorize a Copermittee or other discharger regulated under the terms of this order to divert, store or otherwise impound water if such action is reasonably anticipated to harm downstream water rights holders in the exercise of their water rights. This legal authority must, at a minimum, authorize the Copermittee to:
 - a. Control the contribution of pollutants in discharges of runoff associated with industrial and construction activity to its MS4 and control the quality of runoff from industrial and construction sites. This requirement applies both to industrial and construction sites which have coverage under the statewide general industrial or construction storm water permits, as well as to those sites which do not. Grading ordinances must be updated and enforced as necessary to comply with this Order;
 - b. Prohibit all identified illicit discharges not otherwise allowed pursuant to section B.2;
 - c. Prohibit and eliminate illicit connections to the MS4;
 - d. Control the discharge of spills, dumping, or disposal of materials other than storm water to its MS4;
 - e. Require compliance with conditions in Copermittee ordinances, permits, contracts or orders (i.e., hold dischargers to its MS4 accountable for their contributions of pollutants and flows);
 - f. Utilize enforcement mechanisms to require compliance with Copermittee storm

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- water ordinances, permits, contracts, or orders;
- g.** Control the contribution of pollutants from one portion of the shared MS4 to another portion of the MS4 through interagency agreements among Copermittees.
 - h.** Control of the contribution of pollutants from one portion of the shared MS4 to another portion of the MS4 through interagency agreements with other owners of the MS4 such as the State of California Department of Transportation, the U.S. federal government, or sovereign Native American Tribes is encouraged;
 - i.** Carry out all inspections, surveillance, and monitoring necessary to determine compliance and noncompliance with local ordinances and permits and with this Order, including the prohibition on illicit discharges to the MS4. This means the Copermittee must have authority to enter, monitor, inspect, take measurements, review and copy records, and require regular reports from industrial facilities discharging into its MS4, including construction sites;
 - j.** Require the use of BMPs to prevent or reduce the discharge of pollutants into MS4s from storm water to the MEP; and
 - k.** Require documentation on the effectiveness of BMPs implemented to reduce the discharge of storm water pollutants to the MS4 to the MEP.
- 2.** Each Copermittee must submit on or before June 30, 2012, a statement certified by its chief legal counsel that the Copermittee has taken the necessary steps to obtain and maintain full legal authority to implement and enforce each of the requirements contained in 40 CFR 122.26(d)(2)(i)(A-F) and this Order. These statements must include:
- a.** Citation of runoff related ordinances and the reasons they are enforceable;
 - b.** Identification of the local administrative and legal procedures available to mandate compliance with runoff related ordinances and therefore with the conditions of this Order, and a statement as to whether enforcement actions can be completed administratively or whether they must be commenced and completed in the judicial system; and
 - c.** A brief description of how runoff related ordinances are adopted and the process by which they may be challenged.

F. JURISDICTIONAL RUNOFF MANAGEMENT PROGRAM (JRMP)

Each Copermittee must implement all requirements of section F of this Order no later than July 1, 2012, unless otherwise specified. Upon adoption of this Order and until an updated JRMP is developed and implemented or July 1, 2012, whichever occurs first,, each Copermittee must at a minimum implement its JRMP document, as the document was developed and amended to comply with the requirements of Order No. R9-2004-001.

Each Copermittee must develop and implement an updated JRMP for its jurisdiction no later than July 1, 2012. Each updated JRMP must meet the requirements of section F

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of this Order, reduce the discharge of storm water pollutants from the MS4 to the MEP, effectively prohibit non-storm water discharges, and prevent runoff discharges from the MS4 from causing or contributing to a violation of water quality standards. In addition, each Copermittee's JRMP must identify all departments and positions within its jurisdiction that conduct runoff related activities, and their roles and responsibilities under this Order. This identification must include an up to date organizational chart specifying these departments and key personnel.

1. DEVELOPMENT PLANNING COMPONENT

Each Copermittee must implement a program which meets the requirements of this section and (1) reduces Development Project discharges of storm water pollutants from the MS4 to the MEP; (2) prevents Development Project discharges from the MS4 from causing or contributing to a violation of water quality standards; (3) prevents illicit discharges into the MS4; and (4) manages increases in runoff discharge rates and durations from Development Projects that are likely to cause increased erosion of stream beds and banks, silt pollutant generation, or other impacts to beneficial uses and stream habitat due to increased erosive force.

a. GENERAL PLAN

Each Copermittee must revise as needed its General Plan or equivalent plan (e.g., Comprehensive, Master, or Community Plan) to include water quality and watershed protection principles and policies that direct land-use decisions and require implementation of consistent water quality protection measures for all development, redevelopment, and retrofit projects. Examples of water quality and watershed protection principles and policies to be considered include the following:

- (1) Minimize the amount of impervious surfaces and directly connected impervious surfaces in areas of new development and redevelopment and where feasible slow runoff and maximize on-site infiltration of runoff.
- (2) Implement pollution prevention methods supplemented by pollutant source controls and treatment BMPs. Use small collection strategies located at, or as close as possible to, the source (i.e., the point where water initially meets the ground) to minimize the transport of urban runoff and pollutants offsite and into an MS4.
- (3) Preserve, and where possible, create, or restore areas that provide important water quality benefits, such as riparian corridors, wetlands, and buffer zones. Encourage land acquisition of such areas.
- (4) Limit disturbances of natural water bodies and natural drainage systems caused by development including roads, highways, and bridges.

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- (5) Prior to making land use decisions, utilize methods available to estimate increases in pollutant loads and flows resulting from projected future development. Require incorporation of BMPs to mitigate the projected increases in pollutant loads and flows.
- (6) Avoid development of areas that are particularly susceptible to erosion and sediment loss; or establish development guidance that identifies these areas and protects them from erosion and sediment loss.
- (7) Reduce pollutants associated with vehicles and increasing traffic resulting from development.
- (8) Post-development runoff from a site must not contain pollutant loads that cause or contribute to an exceedance of receiving water quality objectives and which have not been reduced to the MEP.

b. ENVIRONMENTAL REVIEW PROCESS

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

c. APPROVAL PROCESS CRITERIA AND REQUIREMENTS FOR ALL DEVELOPMENT PROJECTS

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

Performance Criteria: Discharges from each approved development project must be subject to the following management measures:

- (1) Source control BMPs that reduce storm water pollutants of concern in runoff; prevent illicit discharges into the MS4; prevent irrigation runoff; storm drain system stenciling or signage; properly design outdoor material storage areas; properly design outdoor work areas; and properly design trash storage areas.
- (2) The following LID BMPs listed below must be implemented at all Development Projects where applicable and feasible.

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- (a) Conserve natural areas, including existing trees, other vegetation, and soils,
 - (b) Construct streets, sidewalks, or parking lot aisles to the minimum widths necessary, provided that public safety is not compromised,
 - (c) Minimize the impervious footprint of the project,
 - (d) Minimize soil compaction to landscaped areas,
 - (e) Minimize disturbances to natural drainages (e.g., natural swales, topographic depressions, etc.), and
 - (f) Disconnect impervious surfaces through distributed pervious areas.
- (3) Buffer zones for natural water bodies, where technically feasible. Where buffer zones are technically infeasible, require project proponent to implement other buffers such as trees, access restrictions, etc;
- (4) Other measures necessary so that grading or other construction activities meet the provisions specified in section F.2 of this Order.
- (5) Submittal of documentation of a mechanism under which ongoing long-term maintenance of all structural post-construction BMPs will be conducted.
- (6) Infiltration and Groundwater Protection

To protect groundwater quality, each Copermittee must apply restrictions to the use of treatment control BMPs that are designed to primarily function as large, centralized infiltration devices (such as large infiltration trenches and infiltration basins). Such restrictions must be designed so that the use of such infiltration treatment control BMPs does not cause or contribute to an exceedance of groundwater quality objectives. At a minimum, each treatment control BMP designed to primarily function as a centralized infiltration device must meet the restrictions below, unless the Development Project demonstrates to the Copermittee that a restriction is not necessary to protect groundwater quality. The Copermittees may collectively or individually develop alternative restrictions on the use of treatment control BMPs which are designed to primarily function as centralized infiltration devices. Alternative restrictions developed by the Copermittees can partially or wholly replace the restrictions listed below. The restrictions do not apply to small infiltration systems dispersed throughout a development project.

- (a) Runoff must undergo pretreatment such as sedimentation or filtration prior to infiltration;
- (b) All dry weather flows containing significant pollutant loads must be diverted from infiltration devices and treated through other BMPs;
- (c) Pollution prevention and source control BMPs must be implemented at a level appropriate to protect groundwater quality at sites where infiltration

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treatment control BMPs are to be used;

- (d) Infiltration treatment control BMPs must be adequately maintained so that they remove storm water pollutants to the MEP;
 - (e) The vertical distance from the base of any infiltration treatment control BMP to the seasonal high groundwater mark must be at least 10 feet. Where groundwater basins do not support beneficial uses, this vertical distance criteria may be reduced, provided groundwater quality is maintained;
 - (f) The soil through which infiltration is to occur must have physical and chemical characteristics (such as appropriate cation exchange capacity, organic content, clay content, and infiltration rate) which are adequate for proper infiltration durations and treatment of runoff for the protection of groundwater beneficial uses;
 - (g) Infiltration treatment control BMPs must not be used for areas of industrial or light industrial activity; and other high threat to water quality land uses and activities as designated by each Copermittee unless first treated or filtered to remove pollutants prior to infiltration; and
 - (h) Infiltration treatment control BMPs must be located a minimum of 100 feet horizontally from any water supply wells.
- (7) Where feasible, landscaping with native or low water species shall be preferred in areas that drain to the MS4 or to waters of the U.S.
- (8) Rain water harvesting, where feasible, must be implemented as part of the site design and construction, and to supplement offsite beneficial uses.

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

On or before June 30, 2012, the Copermittees must submit an updated SSMP, to the San Diego Water Board's Executive Officer for a 30 day public review and comment period. The San Diego Water Board's Executive Officer has the discretion to determine whether to hold a public hearing or to limit public input to written comments. Within 180 days of determination that the SSMP is in compliance with this Order's provisions, each Copermittee must amend its local ordinances consistent with the updated SSMP, and begin implementing the updated SSMP. Any updated local ordinances must be submitted to the San Diego Water Board with the Annual Report. The SSMP must meet the requirements of section F.1.d of this Order to (1) reduce Priority Development Project discharges of storm water pollutants from the MS4 to the MEP, and (2)

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prevent Priority Development Project runoff discharges from the MS4 from causing or contributing to a violation of water quality standards.¹⁰

(1) Definition of Priority Development Project:

Priority Development Projects are:

- (a) All new Development Projects that fall under the project categories or locations listed in section F.1.d.(2), and
- (b) Those redevelopment projects that create, add, or replace at least 5,000 square feet of impervious surfaces on an already developed site and the existing development and/or the redevelopment project falls under the project categories or locations listed in section F.1.d.(2). Where redevelopment results in an increase of less than fifty percent of the impervious surfaces of a previously existing development, and the existing development was not subject to SSMP requirements, the numeric sizing criteria discussed in section F.1.d.(6) applies only to the addition or replacement, and not to the entire development. Where redevelopment results in an increase of more than fifty percent of the impervious surfaces of a previously existing development, the numeric sizing criteria applies to the entire development.
- (c) One acre threshold: In addition to the Priority Development Project Categories identified in section F.1.d.(2), Priority Development Projects must also include all other post-construction pollutant-generating new Development Projects that result in the disturbance of one acre or more of land by July 1, 2012.¹¹

¹⁰ Updated SSMP and hydromodification requirements must apply to all priority projects or phases of priority projects which have not yet begun grading or construction activities at the time any updated SSMP or hydromodification requirement commences. If lawful prior approval of a project exists, whereby application of an updated SSMP or hydromodification requirement to the project is illegal, the updated SSMP or hydromodification requirement need not apply to the project. Updated Development Planning requirements set forth in Sections F.1. (a) through (h) of this Order must apply to all projects or phases of projects, unless, at the time any updated Development Planning requirement commences, the projects or project phases meet any one of the following conditions: (i) the project or phase has begun grading or construction activities; or (ii) a Copermittee determines that lawful prior approval rights for a project or project phase exist, whereby application of the Updated Development Planning requirement to the project is legally infeasible. Where feasible, the Permittees must utilize the SSMP and hydromodification update periods to ensure that projects undergoing approval processes include application of the updated SSMP and hydromodification requirements in its plans.

¹¹ Pollutant generating Development Projects are those projects that generate pollutants at levels greater than natural background levels.

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Where a new Development Project feature, such as a parking lot, falls into a Priority Development Project Category, the entire project footprint is subject to SSMP requirements.

- (a) New development projects that create 10,000 square feet or more of impervious surfaces (collectively over the entire project site) including commercial, industrial, residential, mixed-use, and public projects. This category includes development projects on public or private land which fall under the planning and building authority of the Copermittees.
- (b) Automotive repair shops. This category is defined as a facility that is categorized in any one of the following Standard Industrial Classification (SIC) codes: 5013, 5014, 5541, 7532-7534, or 7536-7539.
- (c) Restaurants. This category is defined as a facility that sells prepared foods and drinks for consumption, including stationary lunch counters and refreshment stands selling prepared foods and drinks for immediate consumption (SIC code 5812), where the land area for development is greater than 5,000 square feet. Restaurants where land development is less than 5,000 square feet must meet all SSMP requirements except for structural treatment BMP and numeric sizing criteria requirement F.1.d.(6) and hydromodification requirement F.1.h.
- (d) All hillside development greater than 5,000 square feet. This category is defined as any development which creates 5,000 square feet of impervious surface which is located in an area with known erosive soil conditions, where the development will grade on any natural slope that is twenty-five percent or greater.
- (e) Environmentally Sensitive Areas (ESAs). All development located within, or directly adjacent to, or discharging directly to an ESA (where discharges from the development or redevelopment will enter receiving waters within the ESA), which either creates 2,500 square feet of impervious surface on a proposed project site or increases the area of imperviousness of a proposed project site to 10 percent or more of its naturally occurring condition. "Directly adjacent" means situated within 200 feet of the ESA. "Discharging directly to" means outflow from a drainage conveyance system that is composed entirely of flows from the subject development or redevelopment site, and not commingled with flows from adjacent lands.

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- (f) Impervious parking lots 5,000 square feet or more and potentially exposed to runoff. Parking lot is defined as a land area or facility for the temporary parking or storage of motor vehicles used personally, for business, or for commerce.
- (g) Street, roads, highways, and freeways. This category includes any paved impervious surface that is 5,000 square feet or greater used for the transportation of automobiles, trucks, motorcycles, and other vehicles. To the extent that the Copermittees develop revised standard roadway design and post-construction BMP guidance that comply with the provisions of Section F.1 of the Order, then public works projects that implement the revised standard roadway sections do not have to develop a project specific SSMP. The standard roadway design and post-construction BMP guidance must be submitted with the Copermittee's updated SSMP.
- (h) Retail Gasoline Outlets (RGOs). This category includes RGOs that meet the following criteria: (a) 5,000 square feet or more or (b) a projected Average Daily Traffic (ADT) of 100 or more vehicles per day.

(3) Pollutants of Concern

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

(4) Low Impact Development BMP Requirements

Each Copermittee must require each Priority Development Project to implement LID BMPs which will collectively minimize directly connected impervious areas, limit loss of existing infiltration capacity, and protect areas that provide important water quality benefits necessary to maintain riparian and aquatic biota, and/or are particularly susceptible to erosion and sediment loss.

- (a) The Copermittees must take the following measures to ensure that LID BMPs are implemented at Priority Development Projects:
 - (i) Each Copermittee must require LID BMPs or make a finding of technical infeasibility for each Priority Development Project in accordance with the LID waiver program in Section F.1.d.(7);
 - (ii) Each Copermittee must incorporate formalized consideration, such as thorough checklists, ordinances, and/or other means, of LID

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BMPs into the plan review process for Priority Development Projects;

- (iii) On or before July 1, 2012, each Copermittee must review its local codes, policies, and ordinances and identify barriers therein to implementation of LID BMPs. Following the identification of these barriers to LID implementation, where feasible, the Copermittee must take, by the end of the permit cycle, appropriate actions to remove such barriers. The Copermittees must include this review with the updated JRMP.

(b) The following LID BMPs must be implemented at each Priority Development Project:

- (i) Maintain or restore natural storage reservoirs and drainage corridors (including depressions, areas of permeable soils, swales, and ephemeral and intermittent streams) to the extent feasible¹².
- (ii) Projects with landscaped or other pervious areas must, where feasible, properly design and construct the pervious areas to effectively receive and infiltrate, retain and/or treat runoff from impervious areas, prior to discharge to the MS4. Soil compaction for these areas must be minimized. The amount of the impervious areas that are to drain to pervious areas must be based upon the total size, soil conditions, slope, and other pertinent factors.
- (iii) Projects with low traffic areas and appropriate soil conditions must construct walkways, trails, overflow parking lots, alleys, or other low-traffic areas with permeable surfaces, such as pervious concrete, porous asphalt, unit pavers, and granular materials.

(c) LID BMPs sizing criteria:

- (i) LID BMPs must be sized and designed to ensure onsite retention without runoff, of the volume of runoff produced from a 24-hour 85th percentile storm event¹³ (“design capture volume”);
- (ii) If onsite infiltration LID BMPs are technically infeasible per section F.1.d.(7)(b), other LID BMPs may treat any volume that is not retained onsite provided that the other LID BMPs are sized to hold

¹² Priority Development Projects proposing to dredge or fill materials in waters of the U.S. and/or waters of the State must obtain a CWA §401 Water Quality Certification and/or Waste Discharge Requirements.

¹³ This volume is not a single volume to be applied to all of Riverside County. The size of the 85th percentile storm event is different for various parts of the County. The Copermittees are encouraged to calculate the 85th percentile storm event for each of its jurisdictions using local rain data pertinent to its particular jurisdiction (0.6 inch standard is a rough average for the County and should only be used where appropriate rain data is not available). In addition, isopluvial maps may be used to extrapolate rainfall data to areas where insufficient data exists in order to determine the volume of the local 85th percentile storm event in such areas. Where the Copermittees will use isopluvial maps to determine the 85th percentile storm event in areas lacking rain data, the Copermittees must describe their method for using isopluvial maps in its SSMPs.

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the design storm volume that is not infiltrated. The LID BMPs must be designed for an appropriate surface loading rate to prevent erosion, scour and channeling within the BMP.

- (d) If it is shown to be technically infeasible per Section F.1.d.(7)(b) to retain and/or treat the remaining volume up to and including the design capture volume using LID BMPs, then the project must implement conventional treatment control BMPs in accordance with Section F.1.d.(6) below and must participate in the LID waiver program in Section F.1.d.(7).
- (e) All LID BMPs must be designed and implemented with measures to avoid the creation of nuisance or pollution associated with vectors, such as mosquitoes, rodents, and flies.

(5) Source Control BMP Requirements

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

- (a) Prevent illicit discharges into the MS4;
- (b) Minimize storm water pollutants of concern in runoff;
- (c) Eliminate irrigation runoff;
- (d) Include storm drain system stenciling or signage;
- (e) Include properly designed outdoor material storage areas;
- (f) Include properly designed outdoor work areas;
- (g) Include properly designed trash storage areas;
- (h) Include water quality protection requirements applicable to individual priority project categories.

(6) Treatment Control BMP Requirements

Each Copermittee must require each Priority Development Project that meets the Copermittee's technical infeasibility criteria in Section F.1.d(7) below, to implement conventional treatment control BMPs to treat the portion of the "design capture volume" that was not treated by LID BMPs per Section F.1.d(4) above. Conventional treatment control BMPs must meet the following requirements:

- (a) All treatment control BMPs for a single Priority Development Project must collectively be sized to comply with the following numeric sizing criteria:
 - (i) Volume-based treatment control BMPs must be designed to mitigate (infiltrate, filter, or treat) the remaining portion of the design capture volume that was not retained and/or treated with LID BMPs; or

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- (ii) Flow-based treatment control BMPs must be designed to mitigate (filter, or treat) either: a) the maximum flow rate of runoff produced from a rainfall intensity of 0.2 inch of rainfall per hour, for each hour of a storm event; or b) the maximum flow rate of runoff produced by the 85th percentile hourly rainfall intensity (for each hour of a storm event), as determined from the local historical rainfall record, multiplied by a factor of two.
- (b) All treatment control BMPs for Priority Development Projects must, at a minimum:
- (i) Be ranked with high or medium pollutant removal efficiency for the project's most significant pollutants of concern, as the pollutant removal efficiencies are identified in the Copermittees' SSMP. Treatment control BMPs with a low removal efficiency ranking must only be approved by a Copermittee when a feasibility analysis has been conducted which exhibits that implementation of treatment control BMPs with high or medium removal efficiency rankings are infeasible for a Priority Development Project or portion of a Priority Development Project.
 - (ii) Be correctly sized and designed so as to remove storm water pollutants to the MEP.
- (c) Target removal of pollutants of concern from runoff.
- (d) Be implemented close to pollutant sources, and prior to discharging into waters of the U.S.
- (e) Include proof of a mechanism under which ongoing long-term maintenance will be conducted to ensure proper maintenance for the life of the project. The mechanisms may be provided by the project proponent or Copermittee.
- (f) Be designed and implemented with measures to avoid the creation of nuisance or pollution associated with vectors, such as mosquitoes, rodents, and flies.
- (7) Low Impact Development (LID) BMP Waiver Program

The Copermittees must develop, collectively or individually, a LID waiver program for incorporation into the SSMP, which would allow a Priority Development Project to substitute implementation of all or a portion of required LID BMPs in Section F.1.d(4) with implementation of treatment control BMPs and either 1) on-site mitigation, 2) an off-site mitigation project, and/or 3) other mitigation developed by the Copermittees. The Copermittees

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must submit the LID waiver program as part of their updated SSMP. At a minimum, the program must meet the requirements below:

- (a) Prior to implementation, the LID waiver program must clearly exhibit that it will not allow Priority Development Projects to result in a net impact (after consideration of any mitigation) from pollutant loadings over and above the impact caused by projects meeting LID requirements;
- (b) For each Priority Development Project participating, the Copermittee must find that it is technically infeasible to implement LID BMPs that comply with the requirements of Section F.1.(d)(4). The Copermittee(s) must develop criteria to determine the technical feasibility of implementing LID BMPs. Each Priority Development Project participating must demonstrate that LID BMPs were implemented as much as feasible given the site's unique conditions. Technical infeasibility may result from conditions including, but not limited to:
 - (i) Locations that cannot meet the infiltration and groundwater protection requirements in section F.1.c.(6) for large, centralized infiltration BMPs. Where infiltration is technically infeasible, the project must still examine the feasibility of other onsite LID BMPs;
 - (ii) Insufficient demand for storm water reuse;
 - (iii) Smart growth and infill or redevelopment locations where the density and/or nature of the project would create significant difficulty for compliance with the LID BMP requirements; and
 - (iv) Other site, geologic, soil, or implementation constraints identified in the Copermittees updated SSMP document.
- (c) Each Priority Development Project that participates in the LID waiver program must mitigate for the pollutant loads expected to be discharged due to not implementing the LID retention BMPs in section F.1.d.(4). The pollutant loading must be estimated for each project participating in the LID waiver program. The estimated impacts from not implementing the required LID retention BMPs in section F.1.d.(4) must be fully mitigated. Mitigation projects must be implemented within the same hydrologic unit as the Priority Development Project. Mitigation projects outside of the hydrologic subarea but within the same hydrologic unit may be approved provided that the project proponent demonstrates that mitigation projects within the same hydrologic subarea are infeasible and that the mitigation project will address similar beneficial use impacts as expected from the Priority Development Projects pollutant load. Onsite mitigation may include increasing the conventional treatment sizing factors to achieve pollutant load removal equal to or greater than the pollutant load removal expected from implementing onsite retention of the design capture volume. Offsite mitigation projects may include green streets projects, existing development retrofit projects, retrofit incentive programs, regional

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BMPs and/or riparian restoration projects. Project applicants seeking to utilize these alternative compliance provisions may propose other offsite mitigation projects, which the Copermittees may approve if they meet the requirements of this subpart.

- (d) A Copermittee may choose to implement additional mitigation programs (e.g., pollutant credit system, mitigation fund) as part of the LID waiver program provided that the mitigation program clearly exhibits that it will not allow Priority Development Projects to result in a net impact from pollutant loadings over and above the impact caused by projects meeting LID requirements. Any additional mitigation programs that a Copermittee chooses to implement must be submitted to the San Diego Water Board Executive Officer for review and acceptance prior to implementation.

(8) LID and Treatment Control BMP Standards

- (a) As part of the SSMP, each Copermittee must develop and require Priority Development Projects to implement siting, design, and maintenance criteria for each LID and treatment control BMP listed in the SSMP to determine feasibility and applicability and so that implemented LID and treatment control BMPs are constructed correctly and are effective at pollutant removal, runoff control, and vector minimization. Development of BMP design worksheets which can be used by project proponents is encouraged.
- (b) LID and treatment control BMPs implemented at any Priority Development Projects must mitigate (treat through infiltration, settling, filtration or other unit processes) the required volume or flow of runoff from all developed portions of the project, including landscaped areas.
- (c) All LID and treatment control BMPs must be located so as to remove pollutants from runoff prior to its discharge to any receiving waters. Multiple Priority Development Projects may use shared post-construction BMPs as long as construction of any shared BMP is completed prior to the use or occupation of any Priority Development Project from which the BMP will receive runoff. Post construction BMPs must not be constructed within a waters of the U.S. or waters of the State.

(9) Implementation Process

- (a) As part of its local SSMP, each Copermittee must implement a process to verify compliance with SSMP requirements. The process must identify at what point in the planning process Priority Development Projects will be required to meet SSMP requirements and at a minimum, the Priority Development Project must implement the required post-construction BMPs prior to occupancy and/or the intended use of any portion of that

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project. The process must also include identification of the roles and responsibilities of various municipal departments in implementing the SSMP requirements, as well as any other measures necessary for the implementation of SSMP requirements.

- (b) Each Copermittee must establish a mechanism not only to track post-construction BMPs, but also to ensure that appropriate easements and ownerships are properly recorded in public records and the information is conveyed to all appropriate parties when there is a change in project or site ownership.

(10) Post-construction BMP Review

- (a) The Copermittees must review and update the BMPs that are listed in their SSMP as options for treatment control. At a minimum, the update must include removal of obsolete or ineffective BMPs and addition of LID BMPs that can be used for treatment, such as bioretention cells, bioretention swales, etc. The update must also add appropriate LID BMPs to any tables or discussions in the local SSMPs addressing pollutant removal efficiencies of treatment control BMPs. In addition, the update must include review and revision where necessary of treatment control BMP pollutant removal efficiencies.
- (b) The update must incorporate findings from BMP effectiveness studies conducted by the Copermittees for projects funded wholly or in part by the State Water Board or Regional Water Boards.
- (c) Each Copermittee must implement a mechanism for annually incorporating findings from local treatment BMP effectiveness studies (e.g., ones conducted by, or on-behalf of, public agencies in Riverside County) into SSMP project reviews and permitting

e. BMP CONSTRUCTION VERIFICATION

Prior to occupancy and/or intended use of any portion of the Priority Development Project subject to SSMP requirements, each Copermittee must inspect the constructed site design, source control, and treatment control BMPs applicable to the constructed portion of the project to verify that they have been constructed and are operating in compliance with all specifications, plans, permits, ordinances, and this Order.

f. BMP MAINTENANCE TRACKING

- (1) Inventory of SSMP projects: Each Copermittee must develop and maintain a watershed-based database to track and inventory all projects constructed, that have a final approved SSMP (SSMP projects), and its structural post-

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construction BMPs within its jurisdiction since July, 2005. LID BMPs implemented on a lot by lot basis in low density residential areas, such as rain barrels, are not required to be tracked or inventoried. At a minimum, the database must include information on BMP type(s), location, watershed, date of construction, party responsible for maintenance, dates and findings of maintenance verifications, and corrective actions, including whether the site was referred to the local vector control agency or department.

(2) Each Copermittee must verify that approved post-construction BMPs are operating effectively and have been adequately maintained by implementing the following measures:

(a) The designation of high priority SSMP Projects must consider the following:

- (i) BMP size,
- (ii) Recommended maintenance frequency,
- (iii) Likelihood of operational and maintenance issues,
- (iv) Location,
- (v) Receiving water quality,
- (vi) Compliance record,
- (vii) Land use,
- (viii) and other pertinent factors;

At a minimum, high priority projects include those projects that generate pollutants (prior to treatment) within the tributary area of a 303(d) listed waterbody impaired for that pollutant; or those projects generating pollutants within the tributary area for an observed action level exceedance of that pollutant.

(b) Beginning on July 1, 2012, each Copermittee must verify that the required structural post-construction BMPs on the inventoried SSMP projects have been implemented, are maintained, and operating effectively through inspections, self-certifications, surveys, or other equally effective approaches with the following conditions:

- (i) The implementation, operation, and maintenance of all (100 percent) approved and inventoried final project public and private SSMPs (a.k.a. WQMPs) must be verified every five years;
- (ii) All (100 percent) projects with BMPs that are high priority must be inspected by the Copermittee annually prior to each rainy season;
- (iii) All (100 percent) Copermittee projects with BMPs must be inspected by the Copermittee annually;
- (iv) At least 20 percent of all approved and inventoried SSMP projects must be inspected by the Copermittee annually;

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- (v) At the discretion of the Copermittee, its inspections may be coordinated with the facility inspections implemented pursuant to section F.3. of this Order;
- (vi) For verifications performed through a means other than direct Copermittee inspection, adequate documentation must be submitted to the Copermittee to provide assurance that the required maintenance has been completed;
- (vii) Appropriate follow-up measures (including re-inspections, enforcement, maintenance, etc.) must be conducted to ensure the treatment BMPs continue to reduce storm water pollutants as originally designed; and
- (viii) Inspections must note observations of vector conditions, such as mosquitoes. Where conditions are identified as contributing to mosquito production, the Copermittee must notify its local vector control agency.

g. ENFORCEMENT OF DEVELOPMENT SITES

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

h. HYDROMODIFICATION – LIMITATIONS ON INCREASES OF RUNOFF DISCHARGE RATES AND DURATIONS¹⁴

Each Copermittee shall collaborate with the other Copermittees to develop and implement a Hydromodification Management Plan (HMP) to manage increases in runoff discharge rates and durations from all Priority Development Projects. The HMP must be incorporated into the SSMP and implemented by each Copermittee so that estimated post-project runoff discharge rates and durations must not exceed pre-development discharge rates and durations. Where the proposed project is located on an already developed site, the pre-project discharge rate and duration must be that of the pre-developed, naturally occurring condition. The draft HMP must be submitted to the San Diego Water Board on or before June 30, 2013. The HMP will be made available for public

¹⁴ Updated SSMP and hydromodification requirements must apply to all Priority Development Projects or phases of Priority Development Projects which have not yet begun grading or construction activities at the time any updated SSMP or hydromodification requirement commences. If a Copermittee determines that lawful prior approval of a project exists, whereby application of an updated SSMP or hydromodification requirement to the project is legally infeasible, the updated SSMP or hydromodification requirement need not apply to the project. The Copermittees must utilize the SSMP and hydromodification update periods to ensure that projects undergoing approval processes include application of the updated SSMP and hydromodification requirements in its plans.

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review and comment and the San Diego Water Board Executive Officer will determine whether to hold a public hearing before the full San Diego Water Board or whether public input will be through written comments to the Executive Officer only.

(1) The HMP must:

- (a) Identify a method for assessing susceptibility and geomorphic stability of channel segments which receive runoff discharges from Priority Development Projects. A performance standard must be established that ensures that the geomorphic stability within the channel will not be compromised as a result of receiving runoff discharges from Priority Development Projects.
- (b) Identify a range of runoff flows¹⁵ based on continuous simulation of the entire rainfall record (or other analytical method proposed by the Copermitttees and deemed acceptable by the San Diego Water Board) for which Priority Development Project post-project runoff flow rates and durations must not exceed pre-development (naturally occurring) runoff flow rates and durations by more than 10 percent, where the increased flow rates and durations will result in increased potential for erosion or other significant adverse impacts to beneficial uses. The lower boundary of the range of runoff flows identified must correspond with the critical channel flow that produces the critical shear stress that initiates channel bed movement or that erodes the toe of channel banks. The identified range of runoff flows may be different for specific watersheds, channels, or channel reaches. In the case of an artificially hardened (concrete lined, rip rap, etc.) channel, the lower boundary of the range of runoff flows identified must correspond with the critical channel flow that produces the critical shear stress that initiates channel bed movement or that erodes the toe of channel banks of a comparable natural channel (i.e. non-hardened, pre-development).
- (c) Identify a method to assess and compensate for the loss of sediment supply to streams due to development. A performance and/or design standard must be created and required to be met by Priority Development Projects to ensure that the loss of sediment supply due to development does not cause or contribute to increased erosion within channel segments downstream of Priority Development Project discharge points.
- (d) Designate and require Priority Development Projects to implement control measures so that (1) post-project runoff flow rates and durations do not exceed pre-development (naturally occurring) runoff flow rates and

¹⁵ The identified range of run off flows to be controlled should be expressed in terms of peak flow rates of rainfall events, such as "10% of the pre-development 2-year runoff event up to the pre-development 10-year runoff event."

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durations by more than 10 percent for the range of runoff flows identified under section F.1.h.(1)(b), where the increased flow rates and durations will result in increased potential for erosion or other significant adverse impacts to beneficial uses; (2) post-project runoff flow rates and durations do not result in channel conditions which do not meet the channel standard developed under section F.1.h.(1)(a) for channel segments downstream of Priority Development Project discharge points; and (3) the design of the project and/or control measures compensate for the loss of sediment supply due to development.

- (e) Include a protocol to evaluate potential hydrograph change impacts to downstream watercourses from Priority Development Projects to meet the range of runoff flows identified under Section F.1.h.(1)(b).
- (f) Include other performance criteria (numeric or otherwise) for Priority Development Projects as necessary to prevent runoff from the projects from increasing and/or continuing unnatural rates of erosion of channel beds and banks, silt pollutants generation, or other impacts to beneficial uses and stream habitat due to increased erosive force.
- (g) Include a review of pertinent literature.
- (h) Identify areas within the Santa Margarita Hydrologic Unit for potential opportunities to restore or rehabilitate stream channels with historic hydromodification of receiving waters that are tributary to documented low or very low Index of Biotic Integrity (IBI) scores.
- (i) Include a description of how the Copermitttees will incorporate the HMP requirements into their local approval processes.
- (j) Include criteria on selection and design of management practices and measures (such as detention, retention, and infiltration) to control flow rates and durations and address potential hydromodification impacts.
- (k) Include technical information, including references, supporting any standards and criteria proposed.
- (l) Include a description of inspections and maintenance to be conducted for management practices and measures to control flow rates and durations and address potential hydromodification impacts.
- (m) Include a description of monitoring and other program evaluations to be conducted to assess the effectiveness of implementation of the HMP. Monitoring and other program evaluations must include an evaluation of changes to physical (e.g., cross-section, slope, discharge rate, vegetation, pervious/impervious area) and biological (e.g., habitat quality, benthic flora

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and fauna, IBI scores) conditions of receiving water channels as areas with Priority Development Projects are constructed (i.e. pre- and post-project), as appropriate.

- (n) Include mechanisms for assessing and addressing cumulative impacts of Priority Development Projects within a watershed on channel morphology.
- (2) In addition to the control measures that must be implemented by Priority Development Projects per section F.1.h.(1)(d), the HMP must include a suite of management measures to be used on Priority Development Projects to mitigate hydromodification impacts, protect and restore downstream beneficial uses and prevent or further prevent adverse physical changes to downstream channels. The measures must be based on a prioritized consideration of the following elements in this order:
- (a) Site design control measures;
 - (b) On-site management measures;
 - (c) Regional control measures located upstream of receiving waters; and
 - (d) In-stream management and control measures.

Where stream channels are adjacent to, or are to be modified as part of a Priority Development Project, management measures must include buffer zones and setbacks. The suite of management measures must also include stream restoration as a viable option to achieve the channel standard in section F.1.h.(1)(a). In-stream controls used as management measures to protect and restore downstream beneficial uses and for preventing or minimizing further adverse physical changes must not include the use of non-naturally occurring hardscape materials such as concrete, riprap, gabions, etc. to reinforce stream channels.

- (3) As part of the HMP, the Copermittees may develop a waiver program that allows a redevelopment Priority Development Project, as defined in Section F.1.d.(1)(b), to implement offsite mitigation measures. A waiver may be granted if onsite management and control measures are technically infeasible to fully achieve post-project runoff flow rates and durations that do not exceed the pre-development (naturally occurring) runoff flow rates and durations. Redevelopment projects that are granted a waiver under the program must not have post-project runoff flow rates and durations that exceed the pre-project runoff flow rates and durations. The incremental hydromodification impacts from not achieving the pre-development (naturally occurring) runoff flow rates and durations for the project site must be fully mitigated. The offsite mitigation must be within the same stream channel system to which the project discharges. Mitigation projects not within the same stream channel system but within the same hydrologic unit may be approved provided that the project proponent demonstrates that mitigation

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within the same stream channel is infeasible and that the mitigation project will address similar impacts as expected from the project.

(4) Each individual Copermitttee has the discretion to not require Section F.1.h. at Priority Development Projects where the project:

- (a) Discharges storm water runoff into underground storm drains discharging directly to water storage reservoirs and lakes;
- (b) Discharges storm water runoff into conveyance channels whose bed and bank are concrete lined all the way from the point of discharge to water storage reservoirs and lakes; or
- (c) Discharges storm water runoff into other areas identified in the HMP as acceptable to not need to meet the requirements of Section F.1.h by the San Diego Water Board Executive Officer.

(5) HMP Reporting and Implementation

- (a) On or before June 30 , 2013, the Copermitttees must submit to the San Diego Water Board a draft HMP that has been reviewed by the public, including the identification of the appropriate limiting range of flow rates per section F.1.h.(1)(b).
- (b) Within 180 days of receiving San Diego Water Board comments on the draft HMP, the Copermitttees must submit a final HMP that addressed the San Diego Water Board's comments.
- (c) Within 90 days of receiving a determination of adequacy from the San Diego Water Board, each Copermitttee must incorporate and implement the HMP for all Priority Development Projects.
- (d) Prior to acceptance of the HMP by the San Diego Water Board, the early implementation measures likely to be included in the HMP must be encouraged by the Copermitttees.

(6) Interim Hydromodification Criteria

Immediately following adoption of this Order and until the final HMP required by this Order has been determined by the San Diego Water Board to be adequate, each Copermitttee must ensure that all Priority Development Projects are implementing the hydromodification (aka Hydrologic Condition of Concern) requirements found in Section 4.4 of the 2006 Riverside County WQMP (updated in 2009) unless one of the following conditions in lieu of those specified in the WQMP are met:

- (a) Runoff from the Priority Development Project discharges (1) directly to a conveyance channel or storm drain that is concrete lined all the way from

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the point of discharge to the ocean, bay, lagoon, water storage reservoir or lake; and (2) the discharge is in full compliance with Copermittee requirements for connections and discharges to the MS4 (including both quality and quantity requirements); and (3) the discharge will not cause increased upstream or downstream erosion or adversely impact downstream habitat; and (4) the discharge is authorized by the Copermittee.

- (b) The Priority Development Project disturbs less than one acre. The Copermittee has the discretion to require a project specific WQMP to address hydrologic condition concerns on projects less than one acre on a case by case basis. The disturbed area calculation should include all disturbances associated with larger common plans of development.
- (c) The runoff flow rate, volume, velocity, and duration for the post-development condition of the Priority Development Project do not exceed the pre-development (i.e. naturally occurring) condition for the 2-year, 24-hour and 10-year, 24-hour rainfall events. This condition must be substantiated by hydrologic modeling acceptable to the Copermittee.

Once a final HMP is determined to be adequate and is required to be implemented, compliance with the final HMP is required by this Order and compliance with the 2004 WQMP (updated in 2009) or the in-lieu interim hydromodification criteria set forth above no longer satisfies the requirements of this Order.

- (7) No part of section F.1.h eliminates the Copermittees' responsibilities for implementing the Low Impact Development requirements under section F.1.d.(4).

i. UNPAVED ROADS DEVELOPMENT

The Copermittees must develop, where they do not already exist, and implement or require implementation of erosion and sediment control BMPs after construction of new unpaved roads. At a minimum, the BMPs must include:

- (1) Practices to minimize road related erosion and sediment transport;
- (2) Grading of unpaved roads to slope outward where consistent with road engineering safety standards;
- (3) Installation of water bars as appropriate;
- (4) Unpaved roads and culvert designs that do not impact creek functions and where applicable, that maintain migratory fish passage;

DRAFT**2. CONSTRUCTION COMPONENT**

Each Copermittee must implement a construction program which meets the requirements of this section, prevents illicit discharges into the MS4, implements and maintains structural and non-structural BMPs to reduce pollutants in storm water runoff from construction sites to the MS4, reduces construction site discharges of storm water pollutants from the MS4 to the MEP, and prevents construction site discharges from the MS4 from causing or contributing to a violation of water quality standards.

a. ORDINANCE UPDATE

By July 1, 2012, each Copermittee must review and update its grading ordinances and other ordinances as necessary to achieve full compliance with this Order, including requirements for the implementation of all designated BMPs and other measures.

b. SOURCE IDENTIFICATION

Each Copermittee must maintain an updated watershed-based inventory of all construction sites within its jurisdiction. The use of an automated database system, such as Geographical Information Systems (GIS) is strongly encouraged.

c. SITE PLANNING AND PROJECT APPROVAL PROCESS

Each Copermittee must incorporate consideration of potential water quality impacts prior to approval and issuance of construction and grading permits.

- (1) Each construction and grading permit must require proposed construction sites to implement designated BMPs and other measures so that illicit discharges into the MS4 are prevented, storm water pollutants discharged from the site will be reduced to the MEP, and construction discharges from the MS4 are prevented from causing or contributing to a violation of water quality standards.
- (2) Prior to permit issuance, the project proponent's runoff management plan (or equivalent construction BMP plan) must be required to comply, and reviewed to verify compliance with the local grading ordinance, other applicable local ordinances, and this Order.
- (3) Prior to permit issuance, each Copermittee must verify that project

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proponents subject to California's statewide General NPDES Permit for Storm Water Discharges Associated With Construction Activities, (hereinafter General Construction Permit), have existing coverage under the General Construction Permit.

d. BMP IMPLEMENTATION

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

(a) Management Measures:

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

(b) Erosion and Sediment Controls:

- (i) Erosion prevention. Erosion prevention is to be used as the most important measure for keeping sediment on site during

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- construction;
 - (ii) Sediment controls. Sediment controls are to be used as a supplement to erosion prevention for keeping sediment on-site during construction;
 - (iii) Slope stabilization must be used on all active slopes during rain events regardless of the season and on all inactive slopes during the rainy season and during rain events in the dry season;
 - (iv) Permanent revegetation or landscaping as early as feasible; and
 - (v) Erosion and sediment controls must be required during the construction of unpaved roads.
- (2) Each Copermittee must implement, or require implementation of, enhanced¹⁶ measures to address the threat to water quality posed by all construction sites tributary to CWA section 303(d) water body segments impaired for sediment or turbidity. Each Copermittee must also implement, or require implementation of, enhanced, measures for construction sites within, or adjacent to, or discharging directly to receiving waters within environmentally sensitive areas (as defined in Attachment C of this Order).
- (3) Active/Passive Sediment Treatment (AST): Each Copermittee must require implementation of AST for sediment at construction sites (or portions thereof) that are determined by the Copermittee to be an exceptional threat to water quality. In evaluating the threat to water quality, the following factors must be considered by the Copermittee:
- (a) Soil erosion potential or soil type;
 - (b) The site's slopes;
 - (c) Project size and type;
 - (d) Sensitivity of receiving water bodies;
 - (e) Proximity to receiving water bodies;
 - (f) Non-storm water discharges;
 - (g) Ineffectiveness of other BMPs;
 - (h) Proximity and sensitivity of aquatic threatened and endangered species of concern;
 - (i) Known effects of AST chemicals; and
 - (j) Any other relevant factors.
- (4) Implement BMPs: Each Copermittee must implement, or require the implementation of, the designated minimum BMPs and any additional measures necessary to comply with this Order at each construction site within its jurisdiction year round. BMP implementation requirements,

¹⁶ Enhanced BMPs are control actions specifically targeted to the pollutant or condition of concern and of higher quality and effectiveness than the minimum control measures otherwise required. Enhanced in this Order means better, not simply more, BMPs.

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however, can vary based on wet and dry seasons. Dry season BMP implementation must plan for and address unseasonal rain events that may occur during the dry season (May 1 through September 30).

e. INSPECTION OF CONSTRUCTION SITES

Each Copermittee must conduct construction site inspections for compliance with its ordinances (grading, storm water, etc.), permits (construction, grading, etc.), and this Order. Priorities for inspecting sites must consider the nature and size of the construction activity, topography, and the characteristics of soils and receiving water quality.

- (1) During the rainy season, each Copermittee must inspect at least every two weeks, all construction sites within its jurisdiction meeting any of the following criteria:
 - (a) All sites 30 acres or more in size with rough grading or with active, unstabilized slopes occurring during the rainy season;
 - (b) All sites one acre or more, and within the same hydrologic subarea and tributary to a CWA section 303(d) water body segment impaired for sediment; or within, directly adjacent to, or discharging directly to a receiving water within an ESA; and
 - (c) Other sites determined by the Copermittees or the San Diego Water Board as a significant threat to water quality. In evaluating threat to water quality, the following factors must be considered: (1) soil erosion potential; (2) site slope; (3) project size and type; (4) sensitivity of receiving water bodies; (5) proximity to receiving water bodies; (6) non-storm water discharges; (7) known past record of non-compliance by the operators of the construction site; and (8) any other relevant factors.
- (2) During the rainy season, each Copermittee must inspect at least monthly, all construction sites with one acre or more of soil disturbance not meeting the criteria specified above in section F.2.e.(1).
- (3) During the rainy season, each Copermittee must inspect construction sites less than one acre in size as needed to ensure compliance with its ordinances and this Order.
- (4) Each Copermittee must inspect all construction sites as needed during the dry season. Sites meeting the criteria in section F.2.e.(1) must be inspected at least once in August or September each year.

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- (5) Re-inspections: Based upon site inspection findings, each Copermittee must implement all follow-up actions (i.e., re-inspection, enforcement) necessary to comply with this Order. Reinspection frequencies must be determined by each Copermittee based upon the severity of deficiencies, the nature of the construction activity, and the characteristics of soils and receiving water quality.
- (6) Inspections of construction sites must include, but not be limited to:
- (a) Check for coverage under the General Construction Permit (Notice of Intent (NOI) and/or Waste Discharge Identification No.) during initial inspections;
 - (b) Assessment of compliance with Copermittee ordinances and permits related to runoff, including the implementation and maintenance of designated minimum BMPs;
 - (c) Assessment of BMP effectiveness;
 - (d) Visual observations for non-storm water discharges, potential illicit connections, and potential discharge of pollutants in storm water runoff;
 - (e) Review of site monitoring data results, if the site monitors its runoff
 - (f) Education and outreach on storm water pollution prevention, as needed; and
 - (g) Creation of a written or electronic inspection report.
- (7) The Copermittees must track the number of inspections for each inventoried construction site throughout the reporting period to verify that each site is inspected at the minimum frequencies required.

f. ENFORCEMENT OF CONSTRUCTION SITES

- (1) Each Copermittee must develop and implement an escalating enforcement process that achieves prompt corrective actions at construction sites for violations of the Copermittee's water quality protection permits, requirements, and ordinances. This enforcement process must include authorizing the Copermittee's construction site inspectors to take immediate enforcement actions when appropriate and necessary. The enforcement process must include appropriate sanctions such as stop work orders, non-monetary penalties, fines, bonding requirements, and/or permit denials for non-compliance.
- (2) Each Copermittee must be able to respond to construction complaints received from third-parties and to ensure the San Diego Water Board that corrective actions have been implemented, if warranted.

DRAFT**g. REPORTING OF NON-COMPLIANT SITES**

- (1) In addition to the notification requirements in Attachment B, each Copermittee must notify the San Diego Water Board when the Copermittee issues high level enforcement (as defined in the Copermittee's JRMP) to a construction site that poses a significant threat to water quality in its jurisdiction as a result of violations of its storm water ordinances.
- (2) Each Copermittee must annually notify the San Diego Water Board, prior to the commencement of the rainy season, of all construction sites with alleged violations that pose a significant threat to water quality. Information may be provided as part of the JRMP annual report if submitted prior to the rainy season. Information provided must include, but not be limited to, the following:
 - (a) WDID number if enrolled under the General Construction Permit
 - (b) Site Location, including address
 - (c) Current violations or suspected violations

3. EXISTING DEVELOPMENT COMPONENT**a. MUNICIPAL**

Each Copermittee must implement a municipal program for the Copermittee's areas and activities that meets the requirements of this section, prevents illicit discharges into the MS4, reduces municipal discharges of storm water pollutants from the MS4 to the MEP, and prevents municipal discharges from the MS4 from causing or contributing to a violation of water quality standards.

(1) Source Identification / Inventory

Each Copermittee must maintain an updated watershed-based inventory of all its municipal areas and those activities that have the potential to generate pollutants. The inventory must include the name, address (if applicable), and a description of the area/activity; which pollutants are potentially generated by the area/activity; whether the area/activity is adjacent to an ESA; and identification of whether the area/activity is tributary to a CWA section 303(d) water body segment and generates pollutants for which the water body segment is impaired. Linear facilities, such as roads, streets, and highways, do not need to be individually inventoried. The use of an automated database system, such as Geographical Information Systems (GIS) is highly recommended.

DRAFT**(2) General BMP Implementation**

- (a) Pollution Prevention: Each Copermittee must implement pollution prevention methods in its municipal program and must require their use by appropriate departments, personnel, and contractors.
- (b) Designate Minimum BMPs: Each Copermittee must designate a minimum set of BMPs for all municipal areas and those activities that have the potential to generate pollutants. The designated minimum BMPs for municipal areas and activities must be area or activity specific as appropriate.
- (c) Each Copermittee must designate BMPs for special events that are expected to generate significant trash and litter. Controls to consider must include:
 - (i) Temporary screens on catch basins and storm drain inlets;
 - (ii) Temporary fencing to prevent windblown trash from entering adjacent water bodies and MS4 channels;
 - (iii) Proper management of trash and litter;
 - (iv) Catch basin cleaning following the special event and prior to an anticipated rain event;
 - (v) Street sweeping of roads, streets, highways and parking facilities following the special event; and
 - (vi) Other equivalent controls.
- (d) Designate BMPs for ESAs and 303(d) Impairments: Each Copermittee must designate enhanced measures for its municipal areas and activities tributary to CWA section 303(d) impaired water body segments when an area or those activities have the potential to generate pollutants for which the water body segment is impaired. Each Copermittee must also designate additional controls for its municipal areas and activities within or directly adjacent to or discharging directly to receiving waters within environmentally sensitive areas (as defined in Attachment C of this Order).
- (e) Implement BMPs: Each Copermittee must implement, or require the implementation of, the designated minimum and enhanced BMPs and any additional measures necessary based on its inventory to comply with this Order for each of its municipal area and those activities that have the potential to discharge pollution.

(3) BMP Implementation for Management of Pesticides, Herbicides, and Fertilizers

Each Copermittee must implement BMPs to reduce the contribution of storm water pollutants to the MEP associated with the application, storage, and

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disposal of pesticides, herbicides and fertilizers from its municipal areas and activities to MS4s and receiving waters. Such BMPs must include, at a minimum:

- (a) Educational activities, permits, certifications and other measures for municipal applicators and distributors;
- (b) Integrated Pest Management (IPM) measures that rely on non-chemical solutions;
- (c) The use of native vegetation;
- (d) Schedules for irrigation and chemical application; and
- (e) The collection and proper disposal of unused pesticides, herbicides, and fertilizers.

(4) BMP implementation for Flood Control Structures

- (a) Each Copermittee must implement procedures to assure that flood management projects assess the impacts on the water quality of receiving water bodies.
- (b) Each Copermittee must include water quality protection measures, where feasible, when retrofitting existing flood control structural devices.
- (c) Each Copermittee must evaluate its existing flood control structures as part of ongoing routine maintenance, identify structures causing or contributing to a condition of pollution, implement measures to reduce or eliminate the structure's effect on pollution, and evaluate the feasibility of retrofitting the structural flood control device. The inventory and evaluation must be completed by and submitted to the San Diego Water Board in each JRMP Annual Report.

(5) BMP Implementation for Sweeping of Municipal Areas

Where municipal area sweeping is implemented as an MS4 BMP for municipal roads, streets, highways, and parking facilities, each Copermittee must design and implement the program based on the following criteria:

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

DRAFT**(6) Operation and Maintenance of Municipal Separate Storm Sewer System (MS4) and Treatment Controls**

- (a) Treatment Controls: Each Copermittee must implement a schedule of inspection and maintenance activities to verify proper operation of all its municipal structural treatment controls designed to reduce storm water pollutant discharges to or from its MS4s and related drainage structures.
- (b) MS4 and Facilities: Each Copermittee must implement a schedule of maintenance activities for its MS4 and facilities (including but not limited to catch basins, storm drain inlets, detention basins, etc). The maintenance activities must, at a minimum, include:
 - (i) Inspection and removal of accumulated waste at least once a year between May 1 and September 30 of each year for all MS4 facilities;
 - (ii) Additional facilities cleaning as necessary between October 1 and April 30 of each year;
 - (iii) Following two years of inspections, any MS4 facility that requires inspection and cleaning less than annually may be inspected as needed, but not less than every other year;
 - (iv) Open channels and basins must be cleaned of observed anthropogenic litter in a timely manner;
 - (v) Maintenance activities within open channels must not adversely impact beneficial uses;
 - (vi) Record keeping of the maintenance and cleaning activities including the overall quantity of waste removed;
 - (vii) Proper disposal of waste removed pursuant to applicable laws; and
 - (viii) Measures to eliminate waste discharges during MS4 maintenance and cleaning activities.

(7) Infiltration From Sanitary Sewer to MS4/Provide Preventive Maintenance

- (a) Each Copermittee must implement controls and measures to prevent and eliminate infiltration of seepage from sanitary sewers to MS4s through thorough, routine preventive maintenance of the MS4. Each Copermittee that operates both a municipal sanitary sewer system and a MS4 must implement controls and measures to prevent and eliminate infiltration of seepage from the sanitary sewers to the MS4s that must include overall sanitary sewer and MS4 surveys and thorough, routine preventive maintenance of both.
- (b) Each Copermittee must implement controls to limit infiltration of seepage from sanitary sewers to municipal separate storm sewer systems where necessary. Such controls must include:

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- (i) Adequate plan checking for construction and new development;
- (ii) Incident response training for its municipal employees that identify sanitary sewer spills;
- (iii) Code enforcement inspections;
- (iv) MS4 maintenance and inspections;
- (v) Interagency coordination with sewer agencies; and
- (vi) Proper education of its municipal staff and contractors conducting field operations on the MS4 or its municipal sanitary sewer (if applicable).

(8) Inspection of Municipal Areas and Activities

- (a) At a minimum, each Copermittee must inspect the following high priority municipal areas and activities annually:
 - (i) Roads, Streets, Highways, and Parking Facilities;
 - (ii) Flood Management Projects and Flood Control Devices not otherwise inspected per Section F.3.a.(6)(b);
 - (iii) Areas and activities tributary to a CWA section 303(d) impaired water body segment, where an area or activity generates pollutants for which the water body segment is impaired.
 - (iv) Areas and activities within or adjacent to or discharging directly to receiving waters within environmentally sensitive areas (as defined in Attachment C of this Order);
 - (v) Municipal Facilities:
 - [a] Active or closed municipal landfills;
 - [b] Publicly owned treatment works (including water and wastewater treatment plants) and sanitary sewage collection systems;
 - [c] Solid waste transfer facilities;
 - [d] Land application sites;
 - [e] Corporate yards including maintenance and storage yards for materials, waste, equipment and vehicles; and
 - [f] Household hazardous waste collection facilities.
 - (vi) Municipal airfields;
 - (vii) Parks and recreation facilities;
 - (viii) Special event venues following special events (festivals, sporting events, etc.);
 - (ix) Power washing activities; and
 - (x) Other municipal areas and activities that the Copermittee determines may contribute a significant pollutant load to the MS4.
- (b) Other municipal areas and activities must be inspected as needed and in response to water quality data, valid public complaints, and findings from municipal or contract staff.

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

(9) Enforcement of Municipal Areas and Activities

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

(10) Unpaved Roads Maintenance

- (a) The Copermittees must develop, where they do not already exist, and implement or require implementation of BMPs for erosion and sediment control measures during maintenance activities on unpaved roads, particularly in or adjacent to receiving waters.
- (b) The Copermittees must develop and implement or require implementation of appropriate BMPs to minimize impacts on streams and wetlands during unpaved road maintenance activities.
- (c) The Copermittees must regularly maintain their unpaved roads adjacent to streams and riparian habitat to reduce erosion and sediment transport;
- (d) Re-grading of unpaved roads during maintenance must be sloped outward where consistent with road engineering safety standards;
- (e) Through their regular maintenance of unpaved roads, the Copermittees must examine the feasibility of replacing existing culverts or design of new culverts or bridge crossings to reduce erosion and maintain natural stream geomorphology.

b. COMMERCIAL / INDUSTRIAL

Each Copermittee must implement a commercial / industrial program that meets the requirements of this section, prevents illicit discharges into the MS4, reduces commercial / industrial discharges of storm water pollutants from the MS4 to the MEP, and prevents commercial / industrial discharges from the MS4 from causing or contributing to a violation of water quality standards.

(1) Source Identification

- (a) Each Copermittee must maintain an updated watershed-based inventory of all industrial and commercial sites/sources within its jurisdiction (regardless of ownership) that could contribute a significant pollutant load to the MS4. The inventory must include the following minimum information for each industrial and commercial site/source: name;

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address; pollutants potentially generated by the site/source; and identification of whether the site/source is tributary to a CWA §303(d) water body segment and generates pollutants for which the water body segment is impaired; and a narrative description including SIC codes which best reflects the principal products or services provided by each facility.

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

- (i) Commercial Sites/Sources:
 - [a] Automobile repair, maintenance, fueling, or cleaning;
 - [b] Airplane repair, maintenance, fueling, or cleaning;
 - [c] Boat repair, maintenance, fueling, or cleaning;
 - [d] Equipment repair, maintenance, fueling, or cleaning;
 - [e] Automobile and other vehicle body repair or painting;
 - [f] Mobile automobile or other vehicle washing;
 - [g] Automobile (or other vehicle) parking lots and storage facilities;
 - [h] Retail or wholesale fueling;
 - [i] Pest control services;
 - [j] Eating or drinking establishments, including such retail establishments with food markets;
 - [k] Mobile carpet, drape or furniture cleaning;
 - [l] Cement mixing or cutting;
 - [m] Masonry;
 - [n] Painting and coating;
 - [o] Botanical or zoological gardens and exhibits;
 - [p] Landscaping;
 - [q] Nurseries and greenhouses;
 - [r] Golf courses, parks and other recreational areas/facilities;
 - [s] Cemeteries;
 - [t] Pool and fountain cleaning;
 - [u] Marinas;
 - [v] Portable sanitary services;
 - [w] Building material retailers and storage;
 - [x] Animal boarding facilities and kennels;
 - [y] Mobile pet services;
 - [z] Power washing services;
 - [aa] Plumbing services; and
 - [bb] Other sites and sources with a history of un-authorized discharges to the MS4.

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(ii) Industrial Sites/Sources:

- [a] Industrial Facilities, as defined at 40 CFR § 122.26(b)(14), including those subject to the General Industrial Permit or other individual NPDES permit;
- [b] Operating and closed landfills;
- [c] Facilities subject to SARA Title III; and
- [d] Hazardous waste treatment, disposal, storage and recovery facilities.

(iii) ESAs and 303(d) Listed Waterbodies: All other commercial or industrial sites/sources tributary to a CWA Section 303(d) impaired water body segment, where the site/source generates pollutants for which the water body segment is impaired. All other commercial or industrial sites/sources within or directly adjacent to or discharging directly to receiving waters within environmentally sensitive areas (as defined in Attachment C of this Order) or that generate pollutants tributary to an observed exceedance of an action level.

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

(2) General BMP Implementation

- (a) Pollution Prevention: Each Copermittee must require the use of pollution prevention methods by the inventoried industrial and commercial sites/sources.
- (b) Designate / Update Minimum BMPs: Each Copermittee must designate a minimum set of BMPs for all inventoried industrial and commercial sites/sources. Where BMPs have already been designated, each Copermittee must review and update its existing BMPs for adequacy within one year of permit adoption. Copermittees may continue to regularly review and update their designated BMPs for adequacy and subsequently submit any updates in their Annual Report. The designated minimum BMPs must be specific to facility types and pollutant-generating activities, as appropriate.
- (c) Designate Enhanced BMPs for ESAs and 303(d) Impairments: Each Copermittee must designate enhanced measures for inventoried industrial and commercial sites/sources tributary to CWA section 303(d) impaired water body segments (where a site/source generates pollutants for which the water body segment is impaired). Each Copermittee must also designate additional controls for industrial and commercial sites/sources within or directly adjacent to or discharging directly to coastal lagoons, the ocean, or other receiving waters within environmentally sensitive areas (as

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defined in Attachment C of this Order). Copermittees may continue to regularly review and update their designated enhanced BMPs for adequacy and subsequently submit any updates in their next Annual Report.

- (d) Implement BMPs: Each Copermittee must implement, or require the implementation of, the designated minimum and enhanced BMPs and any additional measures necessary based on inspections, incident responses, and water quality data to comply with this Order at each industrial and commercial site/source within its jurisdiction.

(3) Mobile Businesses Program

- (a) Each Copermittee must develop and implement a program to reduce the discharge of storm water pollutants from mobile businesses to the MEP and to prohibit non-storm water discharges pursuant to Section B of this Order. Each Copermittee must keep as part of its commercial source inventory a listing of mobile businesses known to operate within its jurisdiction that conduct services listed above in section F.3.b.(1)(a). The program must include:
- (i) Development and implementation of minimum standards and BMPs to be required for each of the various types of mobile businesses;
 - (ii) Development and implementation of an enforcement strategy which specifically addresses the unique characteristics of mobile businesses;
 - (iii) Notification of those mobile businesses known to operate within the Copermittee's jurisdiction of the minimum standards and BMP requirements;
 - (iv) Development and implementation of an outreach and education strategy; and
 - (v) Inspection of mobile businesses as needed to implement the program.
- (b) If they choose to, the Copermittees may cooperate in developing and implementing their programs for mobile businesses, including sharing of mobile business inventories, BMP requirements, enforcement action information, and education.

(4) Inspection of Industrial and Commercial Sites/Sources

Each Copermittee must conduct industrial and commercial site inspections for compliance with its ordinances, permits, and this Order. Mobile businesses must be inspected as needed pursuant to section F.3.b.(3).

- (a) Inspection Procedures: Inspections must include but not be limited to:

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- (i) Review of BMP implementation plans, if the site uses or is required to use such a plan;
 - (ii) Review of facility monitoring data, if the site monitors its runoff;
 - (iii) Check for coverage under the General Industrial Permit (Notice of Intent (NOI) and/or Waste Discharge Identification Number), if applicable;
 - (iv) Assessment of compliance with Copermittee ordinances and Copermittee issued permits related to runoff;
 - (v) Assessment of the implementation, maintenance and effectiveness of the designated minimum and/or enhanced BMPs;
 - (vi) Visual observations for non-storm water discharges, potential illicit connections, and potential discharge of pollutants in storm water runoff; and
 - (vii) Education and training on storm water pollution prevention, as conditions warrant.
- (b) Each Copermittee must annually notify the San Diego Water Board, prior to the commencement of the rainy season, of all Industrial Sites and Industrial Facilities subject to the General Industrial Permit or other individual NPDES permit with alleged violations of the Copermittees ordinances, that pose a significant threat to water quality.
- (c) Frequencies: At a minimum all sites determined to pose a high threat to water quality must be inspected each year. All inventoried sites must be inspected at least once during a five year period. In evaluating threat to water quality, each Copermittee must consider, at a minimum, the following:
- (i) Type of activity (SIC code);
 - (ii) Materials used at the facility;
 - (iii) Wastes generated;
 - (iv) Pollutant discharge potential, including whether the facility generates a pollutant that exceeds an action level;
 - (v) Non-storm water discharges;
 - (vi) Size of facility;
 - (vii) Proximity to receiving water bodies;
 - (viii) Sensitivity of receiving water bodies;
 - (ix) Whether the facility is subject to the General Industrial Permit or an individual NPDES permit;
 - (x) Whether the facility has filed a No Exposure Certification/Notice of Non-Applicability;
 - (xi) Facility design;
 - (xii) Total area of the site, portion of the site where industrial or commercial activities occur, and area of the site exposed to rainfall and runoff;
 - (xiii) The facility's compliance history; and
 - (xiv) Any other relevant factors.

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- (d) Third-Party Certifications: Each Copermittee may propose to develop and implement a third party certification program subject to San Diego Water Board Executive Officer acceptance. This program would verify industrial and commercial site/source compliance with the Copermittees' ordinances, permits, and this Order. To the extent that third party certifications are conducted to fulfill the requirements of Section F.3.b.(4) above, the Copermittee retains responsibility for compliance with this Order and will be responsible for conducting and documenting quality assurance and quality control of the third-party certifications.
- (i) The Copermittee's proposed third party certification program must include the following:
- [a] A description of the procedures and measures for quality assurance and quality control;
 - [b] A listing of sites/sources that may and may not participate in the program;
 - [c] The representative percentage of certifications that would qualify to satisfy the inspection requirements in section F.3.b(4)(c) above;
 - [d] Photo documentation of potential storm water violations identified during the third party inspection;
 - [e] Reporting to the Copermittee of identified significant potential violations, including imminent or observed illegal discharges, within 24 hours of the third party inspection;
 - [f] Reporting to the Copermittee of all findings within one week of the inspection being conducted; and
 - [g] Copermittee follow-up and/or enforcement actions for identified potential storm water violations within two business days of the potential violation report receipt.
- (e) Based upon site inspection findings, each Copermittee must implement all follow-up actions and enforcement necessary to comply with this Order.
- (f) To the extent that the San Diego Water Board has conducted an inspection of an industrial site during a particular year, the requirement for the responsible Copermittee to inspect this facility during the same year is deemed satisfied.
- (g) The Copermittees must track the number of inspections for the inventoried industrial and commercial sites/sources throughout the reporting period to verify that the sites/sources are inspected at the minimum frequencies listed in this Order.

DRAFT**(5) Enforcement of Industrial and Commercial Sites/Sources**

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

c. RESIDENTIAL

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

(1) Threat to Water Quality Prioritization

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

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

(2) BMP Implementation

- (a) Pollution Prevention: Each Copermittee must actively encourage the use of pollution prevention methods by residents.
- (b) Designate BMPs: Each Copermittee must designate minimum BMPs for high-threat-to-water quality residential areas and activities. The designated minimum BMPs for high-threat-to-water quality residential areas and activities must be area or activity specific.

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- (c) Hazardous Waste BMPs: Each Copermittee must facilitate the proper management and disposal of used oil, toxic materials, and other household hazardous wastes. Such facilitation must include educational activities, public information activities, and establishment of collection sites operated individually and/or jointly by the Copermittee(s) or a private entity. Curbside collection of household hazardous wastes is encouraged.
- (d) Implement BMPs: Each Copermittee must implement, or require implementation of, the designated minimum BMPs and any additional measures necessary to comply with Sections A and B of this Order.
- (e) Each Copermittee must implement, or require implementation of, BMPs for residential areas and activities that have not been designated a high threat to water quality, as necessary.

(3) Enforcement of Residential Areas and Activities

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

(4) Common Interest Areas (CIA) / Home Owner Association (HOA) Areas, and Mobile Home Parks

Each Copermittee must ensure that effective measures exist and are implemented or required to be implemented to ensure that runoff within and from common interest developments, including areas managed by associations and mobile home parks, and meets the objectives of this section and Order.

- (a) BMP Implementation: Each Copermittee must implement or require implementation of management measures based on a review of pertinent factors, including:
 - (i) Maintenance duties and procedures typically used by CIA/HOA maintenance associations within its jurisdiction;
 - (ii) Whether streets and storm drains are publicly or privately owned within the CIA/HOA or mobile home park;
 - (iii) Whether the CIA/HOA area or mobile home park has been identified as a high priority residential area based on an evaluation of the site potential to generate pollutants contributing to a 303(d) listed waterbody or an observed action level exceedance;
 - (iv) Other activities conducted or authorized by the HOA that may pose a significant risk to inland receiving waters.

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- (b) Legal Authority and Enforcement: By July 1, 2012, each Copermittee must review, and if necessary update, its Municipal Code to verify that they have the legal authority to implement and enforce its ordinances within CIA/HOA areas and mobile home parks.

(5) Privately Owned Unpaved Roads Maintenance

- (a) The Copermittees must require implementation of BMPs for erosion and sediment control during maintenance activities on privately owned unpaved roads, particularly in or adjacent to stream channels or wetlands.
- (b) The Copermittees must enforce their ordinances against illegal construction and maintenance grading activities on privately owned unpaved roads, so as to prevent impacts to water quality.

d. RETROFITTING EXISTING DEVELOPMENT

Each Copermittee must develop and implement a retrofitting program that meets the requirements of this section. The goals of the existing development retrofitting program are to reduce impacts from hydromodification, promote LID, support riparian and aquatic habitat restoration, reduce the discharges of storm water pollutants from the MS4 to the MEP, and prevent discharges from the MS4 from causing or contributing to a violation of water quality standards. Where feasible, at the discretion of the Copermittee, the existing development retrofitting program may be coordinated with flood control projects and other infrastructure improvement programs.

- (1) The Copermittee(s) must identify and inventory existing areas of development (i.e. municipal, industrial, commercial, residential) as candidates for retrofitting. Potential retrofitting candidates must include but are not limited to:
- (a) Areas of development that generate pollutants of concern to a TMDL or an ESA;
 - (b) Receiving waters that are channelized or otherwise hardened;
 - (c) Areas of development tributary to receiving waters that are channelized or otherwise hardened;
 - (d) Areas of development tributary to receiving waters that are significantly eroded;
 - (e) Areas of development tributary to an ASBS or SWQPA; and
- (2) Each Copermittee must evaluate and rank the inventoried areas of existing developments to prioritize retrofitting. Criteria for evaluation must include but is not limited to:

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- (a) Feasibility;
 - (b) Cost effectiveness;
 - (c) Pollutant removal effectiveness, including reducing pollutants exceeding action level;
 - (d) Tributary area potentially treated;
 - (e) Maintenance requirements;
 - (f) Landowner cooperation;
 - (g) Neighborhood acceptance;
 - (h) Aesthetic qualities;
 - (i) Efficacy at addressing concern; and
 - (j) Potential improvements on public health and safety
- (3) Each Copermittee must consider the results of the evaluation in prioritizing work plans for the following year in accordance with Sections G.1 and J. Highly feasible projects expected to benefit water quality should be given a high priority to implement source control and treatment control BMPs. Where feasible, the retrofit projects may be designed in accordance with the SSMP requirements within sections F.1.d.(3) through F.1.d.(8) and the Hydromodification requirements in Section F.1.h.
- (4) The Copermittees must cooperate with private landowners to encourage site specific retrofitting projects. The Copermittee must consider the following practices in cooperating and encouraging private landowners to retrofit their existing development:
- (a) Demonstration retrofit projects;
 - (b) Retrofits on public land and easements that treat runoff from private developments;
 - (c) Education and outreach;
 - (d) Subsidies for retrofit projects;
 - (e) Requiring retrofit projects as enforcement, mitigation or ordinance compliance;
 - (f) Public and private partnerships; and
 - (g) Fees for existing discharges to the MS4 and reduction of fees for retrofit implementation.
- (5) The completed retrofit BMPs must be tracked in accordance with Section F.1.f. Retrofit BMPs on publicly owned properties must be inspected per section F.1.f. Privately owned retrofit BMPs must be inspected as needed to ensure proper operation and maintenance.
- (6) Where constraints on retrofitting preclude effective BMP deployment on existing developments at locations critical to protect receiving waters (as identified in section F.3.d.(1)), a Copermittee may propose a regional mitigation project to improve water quality. Such regional projects may include but are not limited to:

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- (a) Regional water quality treatment BMPs;
 - (b) Urban creek or wetlands restoration and preservation;
 - (c) Daylighting and restoring underground creeks;
 - (d) Localized rainfall storage and reuse to the extent such projects are fully protective of downstream water rights;
 - (e) Hydromodification project; and
 - (f) Removal of invasive plant species.
- (7) A retrofit project or regional mitigation project may qualify as a Watershed Water Quality Activity provided it meets the requirements in section G. Watershed Workplan.

4. ILLICIT DISCHARGE DETECTION AND ELIMINATION

Each Copermittee must implement a program that meets the requirements of this section to actively detect and eliminate illicit discharges and disposal into the MS4. The program must address all types of illicit discharges and connections excluding those non-storm water discharges not prohibited by the Copermittee in accordance with section B of this Order.

a. PREVENT AND DETECT ILLICIT DISCHARGES AND CONNECTIONS

Each Copermittee must implement measures to prevent and detect illicit discharges to the MS4.

- (1) Legal Authority: Each Copermittee must retain legal authority to prevent and eliminate illicit discharges and connections to the MS4.
- (2) Inspections: Each Copermittee must include use of appropriate Copermittee personnel and contractors to assist in identifying illicit discharges and connections during their daily activities.
 - (a) Visual inspections for illegal discharges and connections must be conducted during routine maintenance of all MS4 facilities.
 - (b) Copermittee staff and contractors conducting non-MS4 field operations must be trained to report suspected illegal discharges and connections to proper Copermittee staff.

b. MAINTAIN MS4 MAP

Each Copermittee must maintain an updated map of its entire MS4 and the corresponding drainage areas within its jurisdiction. The use of GIS is strongly

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encouraged. The MS4 map must include all segments of the storm sewer system owned, operated, and maintained by the Copermittee, as well as all known locations of inlets that discharge and/or collect runoff into the Copermittee's MS4, all known locations of access points (i.e. manholes) to the Copermittee's MS4, all known locations of connections with other MS4s (e.g. Caltrans), and all known locations of all the outfalls that discharge runoff from the Copermittee's MS4. The accuracy of the MS4 map must be confirmed during dry weather field screening and analytical monitoring and must be updated at least annually. The MS4 map including any GIS layers must be submitted with the updated JRMP.

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

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

d. DRY WEATHER FIELD SCREENING AND ANALYTICAL MONITORING

Each Copermittee must conduct dry weather field screening and analytical monitoring of MS4 outfalls and other portions of its MS4 within its jurisdiction to detect illicit discharges and connections in accordance with Receiving Waters and MS4 Discharge Monitoring and Reporting Program No. R9-2010-0016 in Attachment E of this Order.

e. INVESTIGATION / INSPECTION AND FOLLOW-UP

Each Copermittee must implement procedures to investigate and inspect portions of its MS4 that, based on the results of field screening, analytical monitoring, or other appropriate information, indicate a reasonable potential of containing illicit discharges, illicit connections, or other sources of pollutants in non-storm water.

- (1) Develop response criteria for data: Each Copermittee must develop, update, and use numeric criteria action levels (or other actions level criteria where appropriate) to determine when follow-up investigations will be performed in response to water quality monitoring. The criteria must include required non-storm water action levels (see Section C) and a consideration of 303(d)-listed waterbodies and environmentally sensitive areas (ESAs) as defined in Attachment C.

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- (2) Respond to data: Each Copermittee must investigate portions of the MS4 for which water quality data or conditions indicates a potential illegal discharge or connection.
- (a) Obvious illicit discharges (i.e. color, odor, or significant exceedances of action levels) must be investigated immediately.
 - (b) Field screen data: Within two business days of receiving dry weather field screening results that exceed action levels, the Copermittee(s) having jurisdiction must either initiate an investigation to identify the source of the discharge or document the rationale for why the discharge does not pose a threat to water quality and does not need further investigation. This documentation must be included in the Annual Report.
 - (c) Analytical data: Within five business days of receiving analytical laboratory results that exceed action levels, the Copermittee(s) having jurisdiction must either initiate an investigation to identify the source of the discharge or document the rationale for why the discharge does not pose a threat to water quality and does not need further investigation. This documentation must be included in the Annual Report.
- (3) Respond to notifications: Each Copermittee must respond to and resolve each reported incident (e.g., public hotline, staff notification, etc.) made to the Copermittee in a timely manner. Criteria may be developed to assess the validity of, and prioritize the response to, each report.

f. ELIMINATION OF ILLICIT DISCHARGES AND CONNECTIONS

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

g. ENFORCE ORDINANCES

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

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

Each Copermittee must implement management measures and procedures (including a notification mechanism) to prevent, respond to, contain and clean up all sewage (see below) and other spills that may discharge into its MS4 from any source (including private laterals and failing septic systems). Copermittees must coordinate with spill response teams to prevent entry of spills into the MS4 and contamination of surface water, ground water and soil. Each Copermittee must coordinate spill prevention, containment and response activities throughout all appropriate departments, programs and agencies so that maximum water quality protection is available at all times.

5. PUBLIC PARTICIPATION COMPONENT

Each Copermittee must incorporate a mechanism for public participation in the updating, development, and implementation of the JRMP.

6. EDUCATION COMPONENT

Each Copermittee must implement education programs to (1) measurably increase the knowledge regarding MS4s, impacts of 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 pollutants in storm water discharges and eliminate prohibited non-storm water discharges to MS4s and the environment. At a minimum, the education programs must meet the requirements of this section and address the following target communities:

- Copermittee Departments and Personnel
- New Development / Redevelopment Project Applicants, Developers, Contractors, Property Owners, and other Responsible Parties
- Construction Site Owners and Operators
- Commercial Owners and Operators
- Industrial Owners and Operators
- Residential Community and General Public
- Quasi-Governmental Agencies / Districts (i.e., educational institutions, water districts, sanitation districts, etc.)

a. General Requirements

- (1) At a minimum, the Copermittee education programs must educate each target community on the following topics:

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- (a) Applicable water quality laws, regulations, permits, and requirements;
 - (b) Best management practices;
 - (c) General runoff concepts;
 - (d) Existing water quality, including local water quality conditions, impaired waterbodies and environmentally sensitive areas; and
 - (e) Other topics, such as public reporting mechanisms, water conservation, low-impact development techniques, and public health and vector issues associated with runoff.
- (2) Each Copermittee must implement educational activities, public information activities, and other appropriate activities to facilitate the proper management and disposal of used oil and toxic materials.

b. Specific Requirements**(1) Copermittee Departments and Personnel**

- (a) Each Copermittee must implement an education program so its staff and contractors (and Planning Boards and Elected Officials, if applicable) responsible for implementing the requirements of this Order have an understanding of the following topics as applicable to their responsibilities:
- (i) Applicable water quality laws and regulations;
 - (ii) The potential effects and impacts that Copermittee departments and personnel activities related to their job duties can have on water quality);
 - (iii) Plan review policies and procedures to verify consistent application;
 - (iv) Methods of minimizing impacts to receiving water quality resulting from development, construction, and other potential pollutant generating activities;
 - (v) Proper implementation of erosion and sediment control, source control, treatment control, and other BMPs to minimize the impacts to receiving water quality resulting from development, construction, and other potential pollutant generating activities;
 - (vi) Applicable recordkeeping and tracking mechanisms;
 - (vii) Inspection and enforcement procedures, BMP implementation, and review of monitoring data.
- (b) Each Copermittee must train its staff responsible for oversight and conducting storm water compliance inspections and enforcement of construction activities (e.g. construction, building, code enforcement, grading review staffs, inspectors, and other responsible construction staff) annually prior to the rainy season.

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- (c) Each Copermittee must train its staff responsible for conducting storm water compliance inspections and enforcement of industrial and commercial facilities at least once a year.

(2) New Development / Redevelopment and Construction Sites

As early in the planning and development process as possible and all through the permitting and construction process, each Copermittee must notify parties responsible for the project about the importance of educating all construction workers in the field about storm water issues and BMPs, in addition to the topics under Section F.6.a.(1).

(3) Commercial and Industrial Sites / Sources

At least once during the five-year period of this Order, each Copermittee must notify the owner/operator of each of its inventoried commercial and industrial site/source of the BMP requirements applicable to the site/source.

(4) Residential and General Public

Each Copermittee shall collaboratively conduct or participate in development and implementation of a program to educate residential and general public target communities. The Copermittee residential and general public education programs must address potential pollutant generating activities (e.g., car washing, mobile operations, yard maintenance) and pollutant generating products (e.g., pesticides, fertilizers, household chemicals). The target audiences of the residential and general public education programs must include underserved target audiences (e.g., disadvantaged communities), residents and managers of CIA/HOA areas, and owners and residents of mobile home parks.

G. WATERSHED WATER QUALITY WORKPLAN

Each Copermittee must collaborate with other Copermittees to develop and implement a Watershed Water Quality Workplan (Watershed Workplan) to identify, prioritize, address, and mitigate the highest priority water quality issues/pollutants in the Upper Santa Margarita Watershed.

1. Watershed Workplan Components:

The work plan must, at a minimum:

- a. Characterize the receiving water quality in the watershed. Characterization must include assessment and analysis of regularly collected water quality data, reports, monitoring and analysis generated in accordance with the requirements

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of the Receiving Waters Monitoring and Reporting Program, as well as applicable information available from other public and private organizations. This characterization must include an updated watershed map.

- b.** Identify and prioritize water quality problem(s) in terms of constituents by location, in the watershed's receiving waters. In identifying water quality problem(s), the Copermitees must, at a minimum, give consideration to TMDLs, receiving waters listed on the CWA section 303(d) list, waters with persistent violations of water quality standards, toxicity, or other impacts to beneficial uses, and other pertinent conditions.
- c.** Identify the likely sources, pollutant discharges and/or other factors causing the highest water quality problem(s) within the watershed. Efforts to determine such sources must include, but not be limited to: use of information from the construction, industrial/commercial, municipal, and residential source identification programs required within the JRMP of this Order; water quality monitoring data collected as part of the Receiving Water Monitoring and Reporting Program required by this Order, and additional focused water quality monitoring to identify specific sources within the watershed.
- d.** Develop a watershed BMP implementation strategy to attain receiving water quality objectives in the identified highest priority water quality problem(s) and locations. The BMP implementation strategy must include a schedule for implementation of the BMP projects to abate specific receiving water quality problems and a list of criteria to be used to evaluate BMP effectiveness. Identified watershed water quality problems may be the result of jurisdictional discharges that will need to be addressed with BMPs applied in a specific jurisdiction in order to generate a benefit to the watershed. This implementation strategy must include a map of implemented and proposed BMPs.
- e.** Develop a strategy to monitor improvements in receiving water quality directly resulting from implementation of the BMPs described in the Watershed Workplan. The monitoring strategy must review the necessary data to report on the measured pollutant reduction that results from proper BMP implementation. Monitoring must, at a minimum, be conducted in the receiving water to demonstrate reduction in pollutant concentrations and progression towards attainment of receiving water quality objectives.
- f.** Establish a schedule for development and implementation of the Watershed strategy outlined in the Workplan. The schedule must, at a minimum, include forecasted dates of planned actions to address Provisions E.2(a) through E.2(e) and dates for watershed review meetings through the remaining portion of this Permit cycle. Annual watershed workplan review meetings must be open to the public and appropriately publically noticed such that interested parties may come and provide comments on the watershed program.

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- 2. Watershed Workplan Implementation** – Watershed Copermittee’s must implement the Watershed Workplan within 90 days of submittal unless otherwise directed by the San Diego Water Board.
- 3. Copermittee Collaboration** – Watershed Copermittees must collaborate to develop and implement the accepted Watershed Workplan. Watershed Copermittee collaboration must include frequent regularly scheduled meetings. The Copermittees must 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. The Copermittees must, as appropriate, participate in watershed management efforts to address water quality issues within the entire Santa Margarita Watershed (such as the County of San Diego and U.S. Marine Corps Camp Pendleton).
- 4. Public Participation** – Watershed Copermittees must implement a watershed-specific public participation mechanism within each watershed. A required component of the watershed-specific public participation mechanism must be a minimum 30-day public review of and opportunity to comment on the Watershed Workplan prior to submittal to the San Diego Water Board. The Workplan must include a description of the public participation mechanisms to be used and identification of the persons or entities anticipated to be involved during the development and implementation of the Watershed Workplan.
- 5. Watershed Workplan Review and Updates** – Watershed Copermittees must review and update the Watershed Workplan annually to identify needed changes to the prioritized water quality problem(s) listed in the workplan. All updates to the Watershed Workplan must be presented during an Annual Watershed Review Meeting. Annual Watershed Review Meetings must occur once every calendar year and be conducted by the Watershed Copermittees. Annual Watershed Review Meetings must be open to the public and adequately noticed. Individual Watershed Copermittees must also review and modify their jurisdictional programs and JRMP Annual Reports, as necessary, so that they are consistent with the updated Watershed Workplan.
- 6. Pyrethroid Toxicity Reduction Evaluation** – The Watershed Copermittees must incorporate the pyrethroid pollutant reduction program¹⁷ into the Watershed Workplan. The pyrethroid pollutant reduction program must include the following elements:
 - a. Pursue state and federal regulatory change.
 - b. Implement a set of source controls targeted specifically at urban pyrethroid use,
 - c. Through the annual reporting process, monitor the implementation of those

¹⁷ The pyrethroid pollutant reduction program is described in the “Riverside County – Santa Margarita Region Pyrethroid Source Identification Toxicity Reduction Evaluation, Final Phase II Report”, January 2009 by MACTEC.

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controls, assess effectiveness, and identify sources or areas where additional effort is needed,

- d. Implement additional controls as needed,
- e. Continue to monitor implementation, as well as conditions within the target receiving waters, assess effectiveness, and re-evaluate control programs.

H. FISCAL ANALYSIS

1. **Secure Resources:** Each Copermittee must exercise its full authority to secure the resources necessary to meet all requirements of this Order.
2. **Annual Analysis:** Each Copermittee must conduct an annual fiscal analysis of the necessary capital and operation and maintenance expenditures necessary to accomplish the activities of the programs required by this Order. The analysis must include estimated expenditures for the current reporting period, the preceding period, and the next reporting period.
 - a. Each analysis must include a description of the source of funds that are proposed to meet the necessary expenditures.
 - b. Each analysis must include a narrative description of circumstances resulting in a 25 percent or greater annual change for any budget line items.
3. **Annual Reporting:** Each Copermittee must submit its annual fiscal analysis with the annual JRMP report.

I. TOTAL MAXIMUM DAILY LOADS

1. The waste load allocations (WLAs) of fully approved and adopted TMDLs are incorporated as Water Quality Based Effluent Limitations on a pollutant by pollutant, watershed by watershed basis. Early TMDL requirements, including monitoring, may be required and inserted into this Order pursuant to Finding E.10.
2. The Cities of Wildomar and Murrieta must comply with the requirements and WLAs assigned to the discharges from their MS4s contributing to the Lake Elsinore/Canyon Lake (San Jacinto Watershed) Nutrient TMDLs as specified in Section VI.D.2 of the Santa Ana Water Board's Order R8-2010-0033 and subsequent revisions thereto.

J. PROGRAM EFFECTIVENESS ASSESSMENT AND REPORTING

Beginning with the Annual Report due in 2013, each Copermittee must annually assess and report upon the effectiveness of its JRMP and Watershed Workplan implementation to (1) reduce the discharge of storm water pollutants from its MS4 to

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the MEP; (2) prohibit non-stormwater discharges; and (3) prevent runoff discharges from the MS4 from causing or contributing to a violation of water quality standards.

1. Program Effectiveness Assessments**a. IDENTIFY EFFECTIVENESS ASSESSMENTS**

With the JRMP and Watershed Workplan submittal, each Copermittee must establish assessment measures or methods for each of the six outcome levels described by CASQA¹⁸, using data from each JRMP program component, the MRP, and the Watershed Workplan.

- (1) Assessment interval: For each established assessment measure or method, an assessment interval must be established as appropriate to the measure or method.
- (2) Projected Timeframe: For each established assessment measure or method, each Copermittee must identify the projected timeframe within which the associated outcome level can adequately assess change.

b. PERFORM ASSESSMENTS

- (1) Annually: Each year, the Copermittee must perform each applicable assessment based on the associated assessment interval, and determine whether the desired outcome has been met;
- (2) With the submittal of the Report of Waste Discharge, the Copermittees must determine whether their program implementation is resulting in the protection and/or improvement of water quality through an Integrated Assessment;

2. Respond to Assessments

- a. Where the assessments indicate that the desired outcome level has not been achieved at the end of the projected timeframe, the Copermittee must review its applicable activities and BMPs to identify any modifications and improvements needed to maximize effectiveness, as necessary to comply with this Order. If the Copermittee determines that the existing activities/BMPs are adequate, or that the projected timeframe should be extended, justification and an updated timeframe for attainment of the outcome level must be provided in the Annual Report.

¹⁸ Effectiveness assessment outcome levels as defined by CASQA are defined in Attachment C of this Order. See "*Municipal Stormwater Program Effectiveness Assessment Guidance*" (CASQA, May 2007) for guidance for assessing program activities at the various outcome levels.

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- b.** Each Copermittee must develop and implement a work plan and schedule to address any program modifications and improvements in response to the findings of its assessment. The work plan and schedule must be provided and updated with the applicable Annual Report. The work plan must include, at a minimum, the following:
- (1) The problems and priorities identified during the assessment;
 - (2) A list of priority pollutants and known or suspected sources;
 - (3) A brief description of the strategy employed to reduce, eliminate or mitigate the negative impacts;
 - (4) A description and schedule for new and/or modified BMPs. The schedule is to include dates for significant milestones;
 - (5) A description of how the selected activities will address an identified high priority problem. This will include a description of the expected effectiveness and benefits of the new and/or modified BMPs;
 - (6) A description of implementation effectiveness metrics;
 - (7) A description of how efficacy results will be used to modify priorities and implementation; and
 - (8) A review of past activities implemented, progress in meeting water quality standards, and planned program adjustments.

3. Assessment and Response Reporting

Each Copermittee must include a summary of its effectiveness assessments within each Annual Report. Beginning with the FY 2012-2013 Annual Report, the Program Effectiveness reporting must include:

- a.** The results of each of the effectiveness assessments performed pursuant to J.1.b, including the demonstrated CASQA effectiveness level(s);
- b.** Responses to effectiveness assessments; A description of any program modifications planned in accordance with section J.2, including the work plan and identified schedule for implementation. The description must include the basis for determining that each modified activity and/or BMP represents an improvement expected to result in improved water quality;
- c.** A description of any steps to be implemented to improve the Copermittee's ability to assess program effectiveness.

DRAFT**K. REPORTING**

The Copermittees may propose alternate reporting criteria and schedules, as part of their updated JRMP, for the Executive Officer's acceptance.

1. Runoff Management Plans**a. JURISDICTIONAL RUNOFF MANAGEMENT PLANS**

- (1) The written account of the overall program to be conducted by each Copermittee to meet the jurisdictional requirements of section F of this Order is referred to as the Jurisdictional Runoff Management Plan (JRMP). Each Copermittee must revise and update its existing JRMP so that it describes all activities the Copermittee will undertake to implement the requirements of this Order. Each Copermittee must submit its updated and revised JRMP to the San Diego Water Board no later than June 30, 2012.
- (2) At a minimum, each Copermittee's JRMP must be updated and revised to demonstrate compliance with each applicable section of this Order.

b. WATERSHED WORKPLANS

Copermittees must update and revise the Watershed Workplan to describe any changes in water quality problems or priorities, and any necessary change to actions Copermittees will take to implement jurisdictional or watershed BMPs to address those identified. The Copermittees must assemble and submit the Watershed Workplan to the San Diego Water Board no later than June 30, 2012, and must implement the Workplan within 90 days unless otherwise directed by the San Diego Water Board.

2. Other Required Reports and Plans**a. SSMP UPDATES**

- (1) Copermittees must submit their updated SSMP in accordance with the applicable requirements of section F.1 with the JRMP by June 30, 2012.
- (2) Within 180 days of determination that the SSMP is in compliance with this Order's provisions, each Copermittee must amend its ordinances consistent with the SSMP and implement the updated SSMP. Any amended or new ordinances must be submitted to the San Diego Water Board within 30 days of adoption.

DRAFT**b. HMP**

- (1) By June 30, 2013, the Copermittees must submit to the San Diego Water Board Executive Officer a draft HMP that has been reviewed by the public, including identification of the appropriate limiting range of flow rates in accordance with the applicable requirements of section F.1.h.
- (2) Within 180 of receiving San Diego Water Board comments on the draft HMP, the Copermittees must submit a final HMP that addressed the San Diego Water Board's comments.
- (3) Within 90 days of receiving a finding of adequacy from the Executive Officer each Copermittee must incorporate and implement the HMP for all Priority Development Projects.
- (4) Prior to acceptance of the HMP by the San Diego Water Board, the early implementation measures likely to be included in the HMP shall be encouraged by the Copermittees.

c. REPORT OF WASTE DISCHARGE

The Copermittees must submit to the San Diego Water Board, no later than 180 days in advance of the expiration date of this Order, a Report of Waste Discharge (ROWD) as an application for issuance of new waste discharge requirements. The fourth annual report for this Order may supplement the ROWD, provided the ROWD contains the minimum information below.

At a minimum, the ROWD must include the following: (1) Proposed changes to the Copermittees' runoff management programs; (2) Proposed changes to monitoring programs; (3) Justification for proposed changes; (4) Name and mailing addresses of the Copermittees; (5) Names and titles of primary contacts of the Copermittees; (6) Any other information necessary for the reissuance of this Order and (7) Any other information required by federal regulations for permit reapplications.

3. Annual Reports**a. JURISDICTIONAL RUNOFF MANAGEMENT PROGRAM (JRMP) ANNUAL REPORTS**

- (1) Each Copermittee must generate individual JRMP Annual Reports that cover implementation of its jurisdictional activities during the past annual reporting period. Each Annual Report must verify and document compliance with this Order as directed in this section. Each Copermittee must retain records in accordance with the Standard Provisions in Attachment B of this Order,

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available for review, that document compliance with each requirement of this Order. The reporting period for these annual reports must be the previous fiscal year.

- (2) Each Copermittee must submit its JRMP Annual Reports to the San Diego Water Board by October 31 of each year, beginning on October 31, 2013.
- (3) Each JRMP Annual Report must contain, at a minimum, the following information, as applicable to the Copermittee:
- (a) Information required to be reported annually in Section H (Fiscal Analysis) of this Order;
 - (b) Information required to be reported annually in Section J (Program Effectiveness) of this Order;
 - (c) The completed Reporting Checklist found in Attachment D, and
 - (d) Information for each program component as described in the following Table 9:

Table 9. Annual Reporting Requirements

Program Component	Reporting Requirement
New Development	1. All updated relevant sections of the General Plan and environmental review process and a description of any planned updates within the next annual reporting period, if applicable
	2. All revisions to the SSMP, including where applicable: <ul style="list-style-type: none"> (a) Identification and summary of where the SSMP fails to meet the requirements of this Order; (b) Updated procedures for identifying pollutants of concern for each Priority Development Project; (c) Updated treatment BMP ranking matrix; and (d) Updated site design and treatment control BMP design standards;
	3. Number of Priority Development Projects reviewed and approved during the reporting period. 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;
	4. 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;
	5. 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.

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Program Component	Reporting Requirement
New Development	6. 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;
	7. Number and description of all enforcement activities applicable to the new development and redevelopment component and a summary of the effectiveness of those activities;
Construction	1. All updated relevant ordinances and description of planned ordinance updates within the next annual reporting period, if applicable;
	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;
	3. Any changes to the designated minimum and enhanced BMPs;
	4. Summary of the inspection program, including the following information: (a) Total number and date of inspections conducted at each facility; (b) Number, date, and types of enforcement actions by facility; (c) Brief description of each high-level enforcement actions at construction sites including the effectiveness of the enforcement. Supporting paper (or electronic) files must be maintained by the Copermittees and made available upon San Diego Water Board request. 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.
Municipal	1. Updated source inventory;
	2. All changes to the designated municipal BMPs;
	3. Descriptions of any changes to procedures to assure that flood management projects assess the impacts on the water quality of receiving water bodies;
	4. Summary and assessment of BMPs retrofits implemented at flood control structures, including: (a) List of projects retrofitted; and (b) List and description of structures evaluated for retrofitting; (c) List of structures still needing to be evaluated and the schedule for evaluation.;
	5. Summary of the municipal structural treatment control operations and maintenance activities, including: (a) Number of inspections and types of facilities; and (b) Summary of findings;

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Program Component	Reporting Requirement
Municipal	6. Summary of the MS4 and MS4 facilities operations and maintenance activities, including: (a) Number and types of facilities maintained; (b) Amount of material removed; and (c) List of facilities planned for bi-annual inspections and the justification;
	7. Summary of the municipal areas/programs inspection activities, including: (a) Number and date of inspections conducted at each facility; (c) The BMP violations identified during the inspection by facility; (d) Number, date and types of enforcement actions by facility; (e) Summary of inspection findings and follow-up activities for each facility;
	8. Description of activities implemented to address sewage infiltration into the MS4;
	9. Description of BMPs and their implementation for unpaved roads construction and maintenance.
Commercial / Industrial	1. Updated inventory of commercial / industrial sources;
	2. Summary of the inspection program, including the following information: (a) Number and date of inspections conducted at each facility or mobile business;; (c) The BMP violations identified during the inspection by facility; (d) Number, date, and types of enforcement actions by facility or mobile business; (e) Brief description of each high-level enforcement actions at commercial/industrial sites including the effectiveness of the enforcement and follow-up activities for each facility;.
	3. All changes to designated minimum and enhanced BMPs;
	4. A list of industrial sites, including each name, address, and SIC code, that the Copermittee suspects may require coverage under the General Industrial Permit, but has not submitted an NOI;
Residential	1. All updated minimum BMPs required for residential areas and activities;
	2. Quantification and summary of applicable runoff and storm water enforcement actions within residential areas and activities;
	3. Description of efforts to manage runoff and storm water pollution in common interest areas and mobile home parks;
Retrofitting Existing Development	1. Updated inventory and prioritization of existing developments identified as candidates for retrofitting.
	2. Description of efforts to retrofit existing developments during the reporting year.

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Program Component	Reporting Requirement
Retrofitting Existing Development	3. Description of efforts taken to encourage private landowners to retrofit existing development.
	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.
	5. Any proposed retrofit or regional mitigation projects and timelines for future implementation.
	6. Any proposed changes to the Copermittee's overall retrofitting program.
Illicit Discharge Detection and Elimination	1. Any changes to the legal authority to implement Illicit Discharge Detection and Elimination activities;
	2. Any Changes to the established investigation procedures;
	3. Any changes to public reporting mechanisms, including phone numbers and web pages;
	4. Summaries of illicit discharges (including spills and water quality data events) and how each significant case was resolved;
	5. A description of instances when field screening and analytical data exceeded action levels, including those instances for which no investigation was conducted;
	6. A description of follow-up and enforcement actions taken in response to investigations of illicit discharges and a description of the outcome of the investigation/enforcement actions;
Workplans	Updated workplans including priorities, strategy, implementation schedule and effectiveness evaluation;

- (4) Each JRMP Annual Report must also include the following information regarding non-storm water discharges (see Section B.2. of this Order):
- (a) Identification of non-storm water discharge categories identified as a source of pollutants to waters of the U.S;
 - (b) A description of any updates to ordinances, orders, or similar means to prohibit non-storm water discharge categories identified under section B.2 above ;
 - (c) Identification of any control measures to be required and implemented for non-storm water discharge categories identified as needing controls by the San Diego Water Board; and
 - (d) A description of a program to address pollutants from non-emergency fire fighting flows identified by the Copermittee to be significant sources of pollutants.

DRAFT**4. Interim Reporting Requirements**

For the reporting periods, prior to submittal of the JRMP, Each JRMP Annual Report must be submitted in accordance with the requirements and deadlines described in Order No. 2004-001.

5. Universal Reporting Requirements

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

L. MODIFICATION OF PROGRAMS

Modifications of JRMPs and/or Watershed Workplan may be initiated by the Executive Officer of the San Diego Water Board or by the Copermittees. Requests by Copermittees must be made to the Executive Officer, and must be submitted during the annual review process. Requests for modifications should be incorporated, as appropriate, into the Annual Reports or other deliverables required or allowed under this Order.

1. Minor modifications to JRMPs, and/or Watershed Workplan, may be accepted by the Executive Officer where the Executive Officer finds the proposed modification complies with all discharge prohibitions, receiving water limitations, and other requirements of this Order.
2. Proposed modifications that are not minor require amendment of this Order in accordance with this Order's rules, policies, and procedures.

M. PRINCIPAL COPERMITTEE RESPONSIBILITIES

Within 180 days of adoption of this Order, the Copermittees must designate the Principal Copermittee and notify the San Diego Water Board of the name of the Principal Copermittee. The Principal Copermittee must, at a minimum:

1. Serve as liaison between the Copermittees and the San Diego Water Board on general permit issues, and when necessary and appropriate, represent the Copermittees before the San Diego Water Board.
2. Coordinate permit activities among the Copermittees and facilitate collaboration on the development and implementation of programs required under this Order.

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3. Produce and submit documents and reports as required by section K of this Order and Receiving Waters and MS4 Discharge Monitoring and Reporting Program No. R9-2010-0016 in Attachment E of this Order.

N. RECEIVING WATERS AND MS4 DISCHARGE MONITORING AND REPORTING PROGRAM

Pursuant to CWC section 13267, the Copermittees must comply with all the requirements contained in Receiving Waters and MS4 Discharge Monitoring and Reporting Program No. R9-2010-0016 in Attachment E of this Order.

O. STANDARD PROVISIONS, REPORTING REQUIREMENTS, AND NOTIFICATIONS

1. Each Copermittee must comply with Standard Provisions, Reporting Requirements, and Notifications contained in Attachment B of this Order. This includes 24 hour/5 day reporting requirements for any instance of non-compliance with this Order as described in section 5.e of Attachment B.
2. All plans, reports and subsequent amendments submitted in compliance with this Order must be implemented immediately (or as otherwise specified). All submittals by Copermittees must be adequate to implement the requirements of this Order.

I, David W. Gibson, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Diego Region, on October 13, 2010.

\\TENTATIVE

David W. Gibson
Executive Officer

DRAFT**ATTACHMENT A****BASIN PLAN PROHIBITIONS**

California Water Code Section 13243 provides that a Regional Board, in a water quality control plan, may specify certain conditions or areas where the discharge of waste or certain types of waste is not permitted. The following discharge prohibitions are applicable to any person, as defined by Section 13050(c) of the California Water Code, who is a citizen, domiciliary, or political agency or entity of California whose activities in California could affect the quality of waters of the state within the boundaries of the San Diego Region.

1. The discharge of waste to waters of the state in a manner causing, or threatening to cause a condition of pollution, contamination or nuisance as defined in California Water Code Section 13050, is prohibited.
2. The discharge of waste to land, except as authorized by waste discharge requirements or the terms described in California Water Code Section 13264 is prohibited.
3. The discharge of pollutants or dredged or fill material to waters of the United States except as authorized by a NPDES permit or a dredged or fill material permit (subject to the exemption described in California Water Code Section 13376) is prohibited.
4. Discharges of recycled water to lakes or reservoirs used for municipal water supply or to inland surface water tributaries thereto are prohibited, unless this Regional Board issues a NPDES permit authorizing such a discharge; the proposed discharge has been approved by the State Department of Health Services and the operating agency of the impacted reservoir; and the discharger has an approved fail-safe long-term disposal alternative.
5. The discharge of waste to inland surface waters, except in cases where the quality of the discharge complies with applicable receiving water quality objectives, is prohibited. Allowances for dilution may be made at the discretion of the Regional Board. Consideration would include streamflow data, the degree of treatment provided and safety measures to ensure reliability of facility performance. As an example, discharge of secondary effluent would probably be permitted if streamflow provided 100:1 dilution capability.
6. The discharge of waste in a manner causing flow, ponding, or surfacing on lands not owned or under the control of the discharger is prohibited, unless the discharge is authorized by the Regional Board.
7. The dumping, deposition, or discharge of waste directly into waters of the state, or adjacent to such waters in any manner which may permit its being transported into the waters, is prohibited unless authorized by the Regional Board.
8. Any discharge to a storm water conveyance system that is not composed entirely of "storm water" is prohibited unless authorized by the Regional Board. [The federal regulations, 40 CFR 122.26(b)(13), define storm water as storm water

- runoff, snow melt runoff, and surface runoff and drainage. 40 CFR 122.26(b)(2) defines an illicit discharge as any discharge to a storm water conveyance system that is not composed entirely of storm water except discharges pursuant to a NPDES permit and discharges resulting from fire fighting activities. [§122.26 amended at 56 FR 56553, November 5, 1991; 57 FR 11412, April 2, 1992].
9. The unauthorized discharge of treated or untreated sewage to waters of the state or to a storm water conveyance system is prohibited.
 10. The discharge of industrial wastes to conventional septic tank/subsurface disposal systems, except as authorized by the terms described in California Water Code Section 13264, is prohibited.
 11. The discharge of radioactive wastes amenable to alternative methods of disposal into the waters of the state is prohibited.
 12. The discharge of any radiological, chemical, or biological warfare agent into waters of the state is prohibited.
 13. The discharge of waste into a natural or excavated site below historic water levels is prohibited unless the discharge is authorized by the Regional Board.
 14. The discharge of sand, silt, clay, or other earthen materials from any activity, including land grading and construction, in quantities which cause deleterious bottom deposits, turbidity or discoloration in waters of the state or which unreasonably affect, or threaten to affect, beneficial uses of such waters is prohibited.
 15. The discharge of treated or untreated sewage from vessels to Mission Bay, Oceanside Harbor, Dana Point Harbor, or other small boat harbors is prohibited.

ATTACHMENT B**STANDARD PROVISIONS, REPORTING REQUIREMENTS, AND NOTIFICATIONS****1. STANDARD PROVISIONS – PERMIT COMPLIANCE [40 CFR 122.41]****(a) *Duty to comply* [40 CFR 122.41(a)].**

- (1) The Copermitee must comply with all of the conditions of this Order. Any noncompliance constitutes a violation of the Clean Water Act (CWA) and the California Water Code (CWC) and is grounds for enforcement action, for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.
- (2) The Copermitee shall comply with effluent standards or prohibitions established under section 307(a) of the CWA toxic pollutants and with standards for sewage sludge use or disposal established under section 405(d) of the CWA within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if the Order has not yet been modified to incorporate the requirement.

(b) *Need to halt or reduce activity not a defense* [40 CFR 122.41(c)]. It shall not be a defense for the Copermitee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this Order.**(c) *Duty to mitigate* [40 CFR 122.41(d)].** The Copermitee shall take all reasonable steps to minimize or prevent any discharge or prevent any discharge or sludge use or disposal in violation of this Order that has a reasonable likelihood of adversely affecting human health or the environment.**(d) *Proper operation and maintenance* [40 CFR 122.41(e)].** The Copermitee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Copermitee to achieve compliance with the conditions of this Order. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems that are installed by the Copermitee only when necessary to achieve compliance with the conditions of this Order.**(e) *Property rights* [40 CFR 122.41(g)].**

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

(f) *Inspection and entry* [40 CFR 122.41(i)]. The Copermitee shall allow the Regional Water Quality Control Board, San Diego Region (Regional Board), State Water Resources Control Board (SWRCB), United States Environmental Protection Agency

(USEPA), and/or their authorized representatives (including an authorized contractor acting as their representative), upon presentation of credentials and other documents as may be required by law, to:

- (1) Enter upon the Copermittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this Order;
- (2) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Order;
- (3) Inspect and photograph, at reasonable times, any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order; and
- (4) Sample or monitor, at reasonable times, for the purpose of assuring Order compliance or as otherwise authorized by the CWA or the CWC, any substances or parameters at any location.

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

(1) Definitions:

- i) "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.
- ii) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities, which causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

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

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

- i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
- ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
- iii) The Copermittee submitted notice as required under Standard Provisions – Permit Compliance (g)(3) above.

(4) Notice

- i) Anticipated bypass. If the Copermittee knows in advance of the need for a

bypass, it shall submit a notice, if possible at least ten days before the date of the bypass.

- ii) Unanticipated bypass. The Copermittee shall submit notice of an unanticipated bypass as required in Standard Provisions 5(e) below (24-hour notice).
- (h) *Upset* [40 CFR 122.41(n)] Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology based effluent limitations because of factors beyond the reasonable control of the Copermittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- (1) Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of Standard Provisions – Permit Compliance (h)(2) below are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
 - (2) Conditions necessary for a demonstration of upset. A Copermittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - i) An upset occurred and that the Copermittee can identify the cause(s) of the upset;
 - ii) The permitted facility was at the time being properly operated;
 - iii) The Copermittee submitted notice of the upset as required in Standard Provisions – Permit Compliance (5)(e)(ii)(B) below (24-hour notice); and
 - iv) The Copermittee complied with any remedial measures required under Standard Provisions – Permit Compliance 1(c) above.
 - (3) Burden of Proof. In any enforcement proceeding, the Copermittee seeking to establish the occurrence of an upset has the burden of proof.

2. STANDARD PROVISIONS – PERMIT ACTION

- (a) *General* [40 CFR 122.41(f)] This Order may be modified, revoked and reissued, or terminated for cause. The filing of a request by the Copermittee for modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any Order condition.
- (b) *Duty to reapply* [40 CFR 122.41(b)]. If the Copermittee wishes to continue an activity regulated by this Order after the expiration date of this Order, the Copermittee must apply for and obtain new permit.
- (c) *Transfers*. This Order is not transferable to any person except after notice to the Regional Board. The Regional Board may require modification or revocation and reissuance of the Order to change the name of the Copermittee and incorporate such other requirements as may be necessary under the CWA and the CWC.

3. STANDARD PROVISIONS – MONITORING

- (a) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity. [40 CFR Section 122.41 (j) (1)]
- (b) Monitoring results must be conducted according to test procedures under 40 CFR Part 136, or in the case of sludge use or disposal, approved under 40 CFR Part 136 unless otherwise specified in 40 CFR Part 503 unless other test procedures have been specified in this Order [40 CFR Section 122.41(j)(4)][40 CFR Section 122.44(i)(1)(iv)].

4. STANDARD PROVISIONS – RECORDS

- (a) Except for records of monitoring information required by this Order related to the Copermittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR Part 503), the Copermittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this Order, and records of all data used to complete the application for this Order, for a period of at least three (3) years from the date of the sample, measurement, report or application, This period may be extended by request of the Regional Water Board Executive Officer at any time [40 CFR Section 122.41(j)(2)].
- (b) *Records of monitoring information* [40 CFR 122.41(j) (3)] shall include:
 - (1) The date, exact place, and time of sampling or measurements;
 - (2) The individual(s) who performed the sampling or measurements;
 - (3) The date(s) analyses were performed;
 - (4) The individual(s) who performed the analyses;
 - (5) The analytical techniques or methods used; and
 - (6) The results of such analyses.
- (c) *Claims of confidentiality* [40 CFR Section 122.7(b)] of the following information will be denied:
 - (1) The name and address of any permit applicant or Copermittee; and
 - (2) Permit applications and attachments, permits and effluent data.

5. STANDARD PROVISIONS – REPORTING

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

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

- (1) All applications, reports, or information submitted to the Regional Board, SWRCB, or USEPA shall be signed and certified in accordance with Standard Provisions – Reporting 5(b)ii), 5(b)iii), 5(b)iv), and 5(b) (see 40 CFR 122.22)
- (2) *Applications* [40 CFR 122.22(a)(3)] All permit applications shall be signed by either a principal executive officer or ranking elected official.
- (3) *Reports* [40 CFR 122.22(b)]. All reports required by this Order, and other information requested by the Regional Board, SWRCB, or USEPA shall be signed by a person described in Standard Provisions – Reporting 5(b)(2) above, or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 - i) The authorization is made in writing by a person described in Standard Provisions-Reporting 5(b)(2) above;
 - ii) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.); and,
 - iii) The written authorization is submitted to the Regional Water Board and State Water Board.
- (4) *Changes to authorization* [40 CFR Section 122.22(c)] If an authorization under Standard Provisions – Reporting 5(b)(3) of this reporting requirement is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Standard Provisions – Reporting 5(b)(3) above must be submitted to the Regional Water Board and State Water Board prior to or together with any reports, information, or applications to be signed by an authorized representative.
- (5) *Certification* [40 CFR Section 122.22(d)] Any person signing a document under Standard Provisions – Reporting 5(b)(2), or 5(b)(3) above shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

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

- (1) Monitoring results shall be reported at the intervals specified in the Receiving Waters and Runoff Monitoring and Reporting Program No. R9-2009-0002.
 - (2) Monitoring results must be reported on a Discharge Monitoring Report (DMR) form or forms provided or specified by the Regional Board or SWRCB for reporting results of monitoring of sludge use or disposal practices.
 - (3) If the Copermittee monitors any pollutant more frequently than required by this Order using test procedures approved under 40 CFR Part 136 or, in the case of sludge use or disposal, approved under 40 CFR Part 136 unless otherwise specified in 40 CFR Part 503, or as specified in this Order, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Regional Board.
 - (4) Calculations for all limitations, which require averaging of measurements, shall utilize an arithmetic mean unless otherwise specified in this Order.
- (d) *Compliance schedules.* [40 CFR Section 122.41(l)(5)] Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this Order shall be submitted no later than 14 days following each schedule date.
- (e) *Twenty-four hour reporting* [40 CFR Section 122.41(l)(6)]
- (1) The Copermittee shall report any noncompliance that may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the Copermittee becomes aware of the circumstances. A written submission shall also be provided within five (5) days of the time the Copermittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
 - (2) The following shall be included as information, which must be reported within 24 hours under this paragraph:
 - i) Any unanticipated bypass that exceeds any effluent limitation in the Order (See 40 CFR 122.41(g)).
 - ii) Any upset which exceeds any effluent limitation in this Order.
 - (3) The Regional Board may waive the above-required written report under this provision on a case-by-case basis if the oral report has been received within 24 hours.
- (f) *Planned changes.* [40 CFR Section 122.41(l)(1)] The Copermittee shall give notice to the Regional Board as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required under this provision only when:
- (1) The alteration or addition to a permitted facility may meet one of the criteria for

determining whether a facility is a new source in 40 CFR 122.29(b); or

- (2) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants, which are not subject to effluent limitations in this Order.
 - (3) The alteration or addition results in a significant change in the Copermittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing Order, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.
- (g) *Anticipated noncompliance.* [40 CFR Section 122.41(l)(7)] The Copermittee shall give advance notice to the Regional Board or SWRCB of any planned changes in the permitted facility or activity, which may result in noncompliance with Order requirements.
- (h) *Other noncompliance* [40 CFR Section 122.41(l) 7)] The Copermittee shall report all instances of noncompliance not reported under Standard Provisions 5(c), 5(d), and 5(e) above, at the time monitoring reports are submitted. The reports shall contain the information listed in Standard Provision – Reporting 5(e) above.
- (i) *Other information* [40 CFR Section 122.41(l)(8)] When the Copermittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Regional Board, SWRCB, or USEPA, the Copermittee shall promptly submit such facts or information.

6. STANDARD PROVISIONS – ENFORCEMENT

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

7. ADDITIONAL STANDARD PROVISIONS

- (a) *Municipal separate storm sewer systems* [40 CFR 122.42(c)]. The operator of a large or medium municipal separate storm sewer system or a municipal separate storm sewer that has been designated by the Director under 40 CFR 122.26(a)(1)(v) must submit an annual report by the anniversary of the date of the issuance of the permit for such system. The report shall include:
- (1) The status of implementing the components of the storm water management program that are established as permit conditions;
 - (2) Proposed changes to the storm water management programs that are established as permit conditions. Such proposed changes shall be consistent with 40 CFR 122.26(d)(2)(iii); and
 - (3) Revisions, if necessary, to the assessment of controls and the fiscal analysis

- reported in the permit application under 40 CFR 122.26(d)(2)(iv) and 40 CFR 122.26(d)(2)(v);
- (4) A summary of data, including monitoring data, that is accumulated throughout the reporting year;
 - (5) Annual expenditures and budget for year following each annual report;
 - (6) A summary describing the number and nature of enforcement actions, inspections, and public education programs; and
 - (7) Identification of water quality improvements or degradation.
- (b) *Storm water discharges* [40 CFR 122.42(d)]. The initial permits for discharges composed entirely of storm water issued pursuant to 40 CFR 122.26(e)(7) shall require compliance with the conditions of the permit as expeditiously as practicable, but in no event later than three years after the date of issuance of the permit.
- (c) *Other Effluent Limitations and Standards* [40 CFR 122.44(b)(1)]. If any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under Section 307(a) of the CWA for a toxic pollutant which is present in the discharge and that standard or prohibition is more stringent than any limitation on the pollutant in this Order, the Regional Board may institute proceedings under these regulations to modify or revoke and reissue the Order to conform to the toxic effluent standard or prohibition.
- (d) *Discharge is a privilege* [CWC section 13263(g)]. No discharge of waste into the waters of the State, whether or not such discharge is made pursuant to waste discharge requirements, shall create a vested right to continue such discharge. All discharges of waste into waters of the State are privileges, not rights.
- (e) *Review and revision of Order* [CWC section 13263(e)]. Upon application by any affected person, or on its own motion, the Regional Board may review and revise this permit.
- (f) *Termination or modification of Order* [CWC section 13381]. This permit may be terminated or modified for causes, including, but not limited to, all of the following:
- (1) Violation of any condition contained in this Order.
 - (2) Obtaining this Order by misrepresentation, or failure to disclose fully all relevant facts.
 - (3) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.
- (g) *Transfers*. When this Order is transferred to a new owner or operator, such requirements as may be necessary under the CWC may be incorporated into this Order.
- (h) *Conditions not stayed*. The filing of a request by the Copermitttee for modification, revocation and reissuance, or termination of this Order, or a notification of planned change in or anticipated noncompliance with this Order does not stay any condition of this Order.

- (i) *Availability.* A copy of this Order shall be kept at a readily accessible location and shall be available to on-site personnel at all times.
- (j) *Duty to minimize or correct adverse impacts.* The Copermittees shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with this Order, including such accelerated or additional monitoring as may be necessary to determine the nature and impact of the noncompliance.
- (k) *Interim Effluent Limitations.* The Copermittee shall comply with any interim effluent limitations as established by addendum, enforcement action, or revised waste discharge requirements which have been, or may be, adopted by this Regional Board.
- (l) *Responsibilities, liabilities, legal action, penalties* [CWC sections 13385 and 13387]. The Porter-Cologne Water Quality Control Act provides for civil and criminal penalties comparable to, and in some cases greater than, those provided for under the CWA.

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

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

Nothing in this Order shall be construed to preclude the institution of any legal action or relieve the Copermittee from any responsibilities, liabilities, or penalties to which the Copermittee is or may be subject to under Section 311 of the CWA.

Nothing in this Order shall be construed to preclude institution of any legal action or relieve the Copermittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authoring preserved by Section 510 of the CWA.

- (m) *Noncompliance.* Any noncompliance with this Order constitutes violation of the CWC and is grounds for denial of an application for modification of the Order (also see 40 CFR 122.41(a)).
- (n) *Director.* For purposes of this Order, the term "Director" used in parts of 40 CFR incorporated into this Order by reference and/or applicable to this Order shall have the same meaning as the term "Regional Board" used elsewhere in this Order, except that in 40 CFR 122.41(h) and (l), "Director" shall mean "Regional Board, SWRCB, and USEPA."
- (o) The Regional Board has, in prior years, issued a limited number of individual NPDES permits for non-storm water discharges to MS4s. The Regional Board or SWRCB may in the future, upon prior notice to the Copermittee(s), issue an NPDES permit for any non-storm water discharge (or class of non-storm water discharges) to a MS4. Copermittees may prohibit any non-storm water discharge (or class of non-storm water discharges) to a MS4 that is authorized under such separate NPDES permits.

- (p) *Effective date.* This Order shall become effective on the date of its adoption provided the USEPA has no objection. If the USEPA objects to its issuance, this Order shall not become effective until such objection is withdrawn. This Order supersedes Order No. 2001-01 upon the effective date of this Order.
- (q) *Expiration.* This Order expires five years after adoption.
- (r) *Continuation of expired order* [23 CCR 2235.4]. After this Order expires, the terms and conditions of this Order are automatically continued pending issuance of a new permit if all requirements of the federal NPDES regulations on the continuation of expired permits (40 CFR 122.6) are complied with.
- (s) *Applications.* Any application submitted by a Copermittee for reissuance or modification of this Order shall satisfy all applicable requirements specified in federal regulations as well as any additional requirements for submittal of a Report of Waste Discharge specified in the CWC and the California Code of Regulations.
- (t) *Confidentiality.* Except as provided for in 40 CFR 122.7, no information or documents submitted in accordance with or in application for this Order will be considered confidential, and all such information and documents shall be available for review by the public at the Regional Board office.
- (u) *Severability.* The provisions of this Order are severable, and if any provision of this Order, or the application of any provisions of this Order to any circumstance, is held invalid, the application of such provision to other circumstances and the remainder of this Order shall not be affected thereby.
- (v) *Report submittal.* The Copermittee shall submit reports and provide notifications as required by this Order to the following:

NORTHERN WATERSHED UNIT
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION
9174 SKY PARK COURT, SUITE 100
SAN DIEGO CA 92123-4340
Telephone: (858) 467-2952 Fax: (858) 571-6972

EUGENE BROMLEY
US ENVIRONMENTAL PROTECTION AGENCY
REGION IX
PERMITS ISSUANCE SECTION (W-5-1)
75 HAWTHORNE STREET
SAN FRANCISCO CA 94105

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

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ADT	Average Daily Traffic
AMAL	Average Monthly Action Level
ASBS	Area of Special Biological Significance
AST	Active/Passive Sediment Treatment
BMP	Best Management Practice
Basin Plan	Water Quality Control Plan for the San Diego Basin
BU	Beneficial Use
CASQA	California Stormwater Quality Association
CEQA	California Environmental Quality Act
CFR	Code of Federal Regulations
CWA	Clean Water Act
CWC	California Water Code
CZARA	Coastal Zone Act Reauthorization Amendments of 1990
DAMP	Drainage Area Management Plan
DNQ	Detected, but not Quantified
EIA	Effective Impervious Area
ESAs	Environmentally Sensitive Areas
GIS	Geographic Information System
HMP	Hydromodification Management Plan
IBI	Index of Biotic Integrity
JRMP	Jurisdictional Runoff Management Plan
LID	Low Impact Development
MDAL	Maximum Daily Action Level
MEP	Maximum Extent Practicable
ML	Minimum Level
MS4	Municipal Separate Storm Sewer System
NOI	Notice of Intent
NPDES	National Pollutant Discharge Elimination System
Copermittees	County of Riverside, the 4 incorporated cities within the County of Riverside in the San Diego Region, and the Riverside County Flood Control District
RGOs	Retail Gasoline Outlets
ROWD	Riverside County Copermittees' Report of Waste Discharge (application for NPDES reissuance)
RWLs	Receiving Water Limitations
SAL	Storm Water Action Level
San Diego Water Board	California Regional Water Quality Control Board, San Diego Region
SIC	Standard Industrial Classification Code
SSMP	Standard Urban Storm Water Mitigation Plan
State Board	State Water Resources Control Board
SWQPA	State Water Quality Protected Area
TMDL	Total Maximum Daily Load

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USEPA	United States Environmental Protection Agency
WLA	Waste Load Allocation
WQMP	Water Quality Management Plan
WRMP	Watershed Runoff Management Plan

DEFINITIONS

Active/Passive Sediment Treatment - Using mechanical, electrical or chemical means to flocculate or coagulate suspended sediment for removal from runoff from construction sites prior to discharge.

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

Average Monthly Action Level – the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

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

Beneficial Uses - The uses of water necessary for the survival or well being of man, plants, and wildlife. These uses of water serve to promote tangible and intangible economic, social, and environmental goals. “Beneficial Uses” of the waters of the State that may be protected include, but are not limited to, domestic, municipal, agricultural and industrial supply; power generation; recreation; aesthetic enjoyment; navigation; and preservation and enhancement of fish, wildlife, and other aquatic resources or preserves. Existing beneficial uses are uses that were attained in the surface or ground water on or after November 28, 1975; and potential beneficial uses are uses that would probably develop in future years through the implementation of various control measures. “Beneficial Uses” are equivalent to “Designated Uses” under federal law. [California Water Code Section 13050(f)].

Best Management Practices (BMPs) - Defined in 40 CFR 122.2 as schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. In the case of municipal storm water permits, BMPs are typically used in place of numeric effluent limits.

Bioassessment - The use of biological community information to evaluate the biological integrity of a water body and its watershed. With respect to aquatic ecosystems, bioassessment is the collection and analysis of samples of the benthic macroinvertebrate community together with physical/habitat quality measurements associated with the sampling site and the watershed to evaluate the biological condition (i.e. biological integrity) of a water body.

Biocriteria - Under the CWA, numerical values or narrative expressions that define a desired biological condition for a water body that are legally enforceable. The USEPA

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defines biocriteria as: “numerical values or narrative expressions that describe the reference biological integrity of aquatic communities inhabiting waters of a given designated aquatic life use... (that)...describe the characteristics of water body segments least impaired by human activities.”

Biofiltration - refers to practices that use vegetation and amended soils to detain and treat runoff from impervious areas. Treatment is through filtration, infiltration, adsorption, ion exchange, and biological uptake of pollutants.

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

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

Clean Water Act Section 303(d) Water Body - An impaired water body in which water quality does not meet applicable water quality standards and/or is not expected to meet water quality standards, even after the application of technology based pollution controls required by the CWA. The discharge of runoff to these water bodies by the Copermittees is significant because these discharges can cause or contribute to violations of applicable water quality standards.

Construction Site – Any project, including projects requiring coverage under the General Construction Permit, that involves soil disturbing activities including, but not limited to, clearing, grading, disturbances to ground such as stockpiling, and excavation.

Contamination - As defined in the Porter-Cologne Water Quality Control Act, contamination is “an impairment of the quality of waters of the State by waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease. ‘Contamination’ includes any equivalent effect resulting from the disposal of waste whether or not waters of the State are affected.”

Critical Channel Flow (Qc) – The channel flow that produces the critical shear stress that initiates bed movement or that erodes the toe of channel banks. When measuring Qc, it should be based on the weakest boundary material – either bed or bank.

CWA – Federal Clean Water Act

CWC – California Water Code

Daily Discharge – Daily Discharge is defined as either: (1) the total mass of the constituent discharged over the calendar day or any 24 hour period that reasonably represents a calendar day for purposes of sampling (as specified in the permit), for a constituent with limitations expressed in units of mass or; (2) the unweighted arithmetic mean measurement of the constituent over the day for a constituent with limitations expressed in other units of measurement (e.g. concentration.)

The Daily Discharge may be determined by the analytical results of a composite sample taken over the course of one day (a calendar day, or other 24 hour period other than a day), or by the arithmetic mean of analytical results from one or more grab samples taken over the course of a day.

Detected, but not Quantified – those sample results less than the reporting level, but greater than or equal to the laboratory's Method of Detection Limit (MDL.)

Development Projects - Construction, rehabilitation, redevelopment, or reconstruction of any public or private residential project, industrial, commercial, or any other projects.

Dilution Credit – the amount of dilution granted to a discharger in the calculation of a WQBEL, based on the allowance of a specific mixing zone. It is calculated from the dilution ratio, or determined through conducting of a mixing zone study, or modeling of the discharge and receiving water.

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

Dry Weather – weather is considered dry if the preceding 72 hours has been without precipitation.

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

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

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

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

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

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

Enclosed Bays – Enclosed bays are indentations along the coast that enclose an area of oceanic water within distinct headlands or harbor works. Enclosed bays include all

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bays where the narrowest distance between the headlands or outermost bay works is less than 75 percent of the greatest dimension of the enclosed portion of the bay. Enclosed bays do not include inland surface waters or ocean waters.

Erosion – When land is diminished or worn away due to wind, water, or glacial ice. Often the eroded debris (silt or sediment) becomes a pollutant via storm water runoff. Erosion occurs naturally but can be intensified by land clearing activities such as farming, development, road building, and timber harvesting.

Environmentally Sensitive Areas (ESAs) - Areas that include but are not limited to all Clean Water Act Section 303(d) impaired water bodies; areas designated as Areas of Special Biological Significance by the State Water Resources Control Board (Water Quality Control Plan for the San Diego Basin (1994) and amendments); State Water Quality Protected Areas; water bodies designated with the RARE beneficial use by the State Water Resources Control Board (Water Quality Control Plan for the San Diego Basin (1994) and amendments); areas designated as preserves or their equivalent under the Natural Communities Conservation Program within the Cities and County of Orange; and any other equivalent environmentally sensitive areas which have been identified by the Copermittees.

Estuaries – waters, including coastal lagoons, located at the mouth of streams that serve as areas of mixing fresh and ocean waters. Coastal lagoons and mouths of streams that are temporarily separated from the ocean by sandbars shall be considered estuaries. Estuarine waters shall be considered to extend from a bay or the open ocean to a point upstream where there is no significant mixing of fresh water and ocean water. Estuaries do not include inland surface waters or ocean waters.

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

Flow Duration – The long-term period of time that flows occur above a threshold that causes significant sediment transport and may cause excessive erosion damage to creeks and streams (not a single storm event duration). The simplest way to visualize this is to consider a histogram of pre- and post-project flows using long-term records of hourly data. To maintain pre-project flow duration means that the total number of hours (counts) within each range of flows in a flow-duration histogram cannot increase between the pre- and post-project condition. Flow duration within the range of geomorphologically significant flows is important for managing erosion.

GIS – Geographic Information System

Grading - The cutting and/or filling of the land surface to a desired slope or elevation.

Hazardous Material – Any substance that poses a threat to human health or the environment due to its toxicity, corrosiveness, ignitability, explosive nature or chemical

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reactivity. These also include materials named by the USEPA in 40 CFR 116 to be reported if a designated quantity of the material is spilled into the waters of the U.S. or emitted into the environment.

Hazardous Waste - Hazardous waste is defined as “any waste which, under Section 600 of Title 22 of this code, is required to be managed according to Chapter 30 of Division 4.5 of Title 22 of this code” [CCR Title 22, Division 4.5, Chapter 11, Article 1].

Household Hazardous Waste – Paints, cleaning products, and other wastes generated during home improvement or maintenance activities.

Hydromodification – The change in the natural watershed hydrologic processes and runoff characteristics (i.e., interception, infiltration, overland flow, interflow and groundwater flow) caused by urbanization or other land use changes that result in increased stream flows and sediment transport. In addition, alteration of stream and river channels, such as stream channelization, concrete lining, installation of dams and water impoundments, and excessive streambank and shoreline erosion are also considered hydromodification, due to their disruption of natural watershed hydrologic processes.

Illicit Connection – Any connection to the MS4 that conveys an illicit discharge.

Illicit Discharge - Any discharge to the MS4 that is not composed entirely of storm water except discharges pursuant to a NPDES permit and discharges resulting from fire fighting activities [40 CFR 122.26(b)(2)].

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

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

Inland Surface Waters – all surface waters of the State that do not include the ocean, enclosed bays, or estuaries.

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

Jurisdictional Runoff Management Plan (JRMP) – A written description of the specific jurisdictional runoff management measures and programs that each Copermittee will implement to comply with this Order and ensure that storm water pollutant discharges in runoff are reduced to the MEP and do not cause or contribute to a violation of water quality standards.

Low Impact Development (LID) – A storm water management and land development strategy that emphasizes conservation and the use of on-site natural features integrated with engineered, small-scale hydrologic controls to more closely reflect pre-development hydrologic functions.

Maximum Daily Action Level (MDAL) – is the highest allowable daily discharge of a pollutant, over a calendar day (or 24 hour period). For pollutants with action levels expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with action levels expressed in other units of measurement, the daily discharge is calculated as the arithmetic mean measurement of the pollutant over the day.

Maximum Extent Practicable (MEP) – The technology-based standard established by Congress in CWA section 402(p)(3)(B)(iii) for storm water that operators of MS4s must meet. Technology-based standards establish the level of pollutant reductions that dischargers must achieve, typically by treatment or by a combination of source control and treatment control BMPs. MEP generally emphasizes pollution prevention and source control BMPs primarily (as the first line of defense) in combination with treatment methods serving as a backup (additional line of defense). MEP considers economics and is generally, but not necessarily, less stringent than BAT. A definition for MEP is not provided either in the statute or in the regulations. Instead the definition of MEP is dynamic and will be defined by the following process over time: municipalities propose their definition of MEP by way of their runoff management programs. Their total collective and individual activities conducted pursuant to the runoff management programs becomes their proposal for MEP as it applies both to their overall effort, as well as to specific activities (e.g., MEP for street sweeping, or MEP for MS4 maintenance). In the absence of a proposal acceptable to the Regional Board, the Regional Board defines MEP.

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

“To achieve the MEP standard, municipalities must employ whatever Best Management Practices (BMPs) are technically feasible (i.e., are likely to be effective) and are not cost prohibitive. The major emphasis is on technical feasibility. Reducing pollutants to the MEP means choosing effective BMPs, and rejecting applicable BMPs only where other effective BMPs will serve the same purpose, or the BMPs would not be technically feasible, or the cost would be prohibitive. In selecting BMPs to achieve the MEP standard, the following factors may be useful to consider:

- a. *Effectiveness: Will the BMPs address a pollutant (or pollutant source) of concern?*
- b. *Regulatory Compliance: Is the BMP in compliance with storm water regulations as well as other environmental regulations?*
- c. *Public Acceptance: Does the BMP have public support?*
- d. *Cost: Will the cost of implementing the BMP have a reasonable relationship to the pollution control benefits to be achieved?*
- e. *Technical Feasibility: Is the BMP technically feasible considering soils, geography, water resources, etc?*

The final determination regarding whether a municipality has reduced pollutants to the maximum extent practicable can only be made by the Regional or State Water Boards, and not by the municipal discharger. If a municipality reviews a

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lengthy menu of BMPs and chooses to select only a few of the least expensive, it is likely that MEP has not been met. On the other hand, if a municipal discharger employs all applicable BMPs except those where it can show that they are not technically feasible in the locality, or whose cost would exceed any benefit derived, it would have met the standard. Where a choice may be made between two BMPs that should provide generally comparable effectiveness, the discharger may choose the least expensive alternative and exclude the more expensive BMP. However, it would not be acceptable either to reject all BMPs that would address a pollutant source, or to pick a BMP base solely on cost, which would be clearly less effective. In selecting BMPs the municipality must make a serious attempt to comply and practical solutions may not be lightly rejected. In any case, the burden would be on the municipal discharger to show compliance with its permit. After selecting a menu of BMPs, it is the responsibility of the discharger to ensure that all BMPs are implemented.”

Minimum Level – the concentration at which the entire analytical system must give a recognizable signal and acceptable calibration point. The ML is the concentration in a sample that is equivalent to the concentration of the lowest calibration standard analyzed by a specific analytical procedure, assuming that all the method sample weights, volumes and processing steps have been followed.

Monitoring Year – the monitoring year includes a full wet season and dry season, beginning annually on October 1st and ending on September 30th.

Municipal Separate Storm Sewer System (MS4) – A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains): (i) Owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or designated and approved management agency under section 208 of the CWA that discharges to waters of the United States; (ii) Designated or used for collecting or conveying storm water; (iii) Which is not a combined sewer; (iv) Which is not part of the Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.26.

National Pollutant Discharge Elimination System (NPDES) - The national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under Sections 307, 318, 402, and 405 of the CWA.

NOI – Notice of Intent

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

Nuisance - As defined in the Porter-Cologne Water Quality Control Act a nuisance is “anything which meets all of the following requirements: 1) Is injurious to health, or is

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indecent, or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property. 2) Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal. 3) Occurs during, or as a result of, the treatment or disposal of wastes.”

Ocean Waters – the territorial marine waters of the State as defined by California law to the extent these waters are outside of enclosed bays, estuaries, and coastal lagoons. Discharges to ocean waters are regulated in accordance with the State Board’s California Ocean Plan.

Order – Order No. R9-2009-0002 (NPDES No. CAS0108740)

Person - A person is defined as an individual, association, partnership, corporation, municipality, State or Federal agency, or an agent or employee thereof [40 CFR 122.2].

Point Source - Any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operations, landfill leachate collection systems, vessel, or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.

Pollutant - Any agent that may cause or contribute to the degradation of water quality such that a condition of pollution or contamination is created or aggravated.

Pollution - As defined in the Porter-Cologne Water Quality Control Act: “the alteration of the quality of the waters of the State by waste, to a degree that unreasonably affects the either of the following: 1) The waters for beneficial uses; or 2) Facilities that serve these beneficial uses.” Pollution may include contamination.

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

Pollution Prevention - Pollution prevention is defined as practices and processes that reduce or eliminate the generation of pollutants, in contrast to source control BMPs, treatment control BMPs, or disposal.

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

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

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human-induced land activities occurred. This definition pertains to redevelopment as well as initial development.

Principal Copermittee – County of Orange

Priority Development Projects - New development and redevelopment project categories listed in Section F.1.d(2) of Order No. R9-2009-0002.

Rainy Season – (aka Wet Season) is the period of time from October 1 forward to April 30 when the San Diego region experiences the most rainfall.

Receiving Waters – Waters of the United States.

Receiving Water Limitations (RWLs) - Waste discharge requirements issued by the Regional Board typically include both: (1) "Effluent Limitations" (or "Discharge Limitations") that specify the technology-based or water-quality-based effluent limitations; and (2) "Receiving Water Limitations" that specify the water quality objectives in the Basin Plan as well as any other limitations necessary to attain those objectives. In summary, the "Receiving Water Limitations" provision is the provision used to implement the requirement of CWA section 301(b)(1)(C) that NPDES permits must include any more stringent limitations necessary to meet water quality standards.

Redevelopment - The creation, addition, and or replacement of impervious surface on an already developed site. Examples include the expansion of a building footprint, road widening, the addition to or replacement of a structure, and creation or addition of impervious surfaces. Replacement of impervious surfaces includes any activity that is not part of a routine maintenance activity where impervious material(s) are removed, exposing underlying soil during construction. Redevelopment does not include trenching and resurfacing associated with utility work; resurfacing existing roadways; new sidewalk construction, pedestrian ramps, or bikelane on existing roads; and routine replacement of damaged pavement, such as pothole repair.

Retain – to keep or hold in a particular place, condition, or position without discharge to surface waters.

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

San Diego Water Board – As used in this document the term "San Diego Water Board" is synonymous with the term "Regional Board" as defined in Water Code section 13050(b) and is intended to refer to the California Regional Water Quality Control Board for the San Diego Region as specified in Water Code Section 13200.

Sediment - Soil, sand, and minerals washed from land into water. Sediment resulting from anthropogenic sources (i.e. human induced land disturbance activities) is considered a pollutant. This Order regulates only the discharges of sediment from anthropogenic sources and does not regulate naturally occurring sources of sediment. Sediment can destroy fish-nesting areas, clog animal habitats, and cloud waters so that sunlight does not reach aquatic plants.

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Shared Treatment Control BMP - BMPs used by multiple developments to infiltrate, filter, or treat the required volume or flow prior to discharge to a receiving water. This could include, for example, a treatment BMP at the end of an enclosed storm drain that collects runoff from several commercial developments.

Source Control BMP – Land use or site planning practices, or structural or nonstructural measures that aim to prevent runoff pollution by reducing the potential for contamination at the source of pollution. Source control BMPs minimize the contact between pollutants and runoff.

State Water Quality Protection Area – A nonterrestrial marine or estuarine area designated to protect marine species or biological communities from an undesirable alteration in natural water quality, including, but not limited to, areas of special biological significance that have been designated by the State Water Resources Control Board through its water quality control planning process. Areas of special biological significance are a subset of State Water Quality Protection Areas, and require special protection as determined by the State Water Resources Control Board pursuant to the California Ocean Plan adopted and reviewed pursuant to Article 4 (commencing with Section 13160) of Chapter 3 of Division 7 of the California Water Code and pursuant to the Water Quality Control Plan for Control of Temperature in the Coastal and Interstate Waters and Enclosed Bays and Estuaries of California (California Thermal Plan) adopted by the state board.

Storm Water – Per 40 CFR 122.26(b)(13), means storm water runoff, snowmelt runoff and surface runoff and drainage. Surface runoff and drainage pertains to runoff and drainage resulting from precipitation events.

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

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

Total Maximum Daily Load (TMDL) - The maximum amount of a pollutant that can be discharged into a water body from all sources (point and non-point) and still maintain water quality standards. Under CWA section 303(d), TMDLs must be developed for all water bodies that do not meet water quality standards after application of technology-based controls.

Toxicity - Adverse responses of organisms to chemicals or physical agents ranging from mortality to physiological responses such as impaired reproduction or growth anomalies). The water quality objectives for toxicity provided in the Water Quality Control Plan, San Diego Basin, Region 9, (Basin Plan), state in part...“All waters shall be free of toxic substances in concentrations that are toxic to, or that produce detrimental physiological responses in human, plant, animal, or aquatic life....The survival of aquatic life in surface waters subjected to a waste discharge or other controllable water quality factors, shall not be less than that for the same water body in areas unaffected by the waste discharge”.

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Treatment Control BMP – Any engineered system designed to remove pollutants by simple gravity settling of particulate pollutants, filtration, biological uptake, media absorption or any other physical, biological, or chemical process.

Unpaved Road – is a long, narrow stretch without pavement used for traveling by motor passenger vehicle between two or more points. Unpaved roads are generally constructed of dirt, gravel, aggregate or macadam and may be improved or unimproved.

Waste - As defined in CWC Section 13050(d), “waste includes sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for purposes of, disposal.”

Article 2 of CCR Title 23, Chapter 15 (Chapter 15) contains a waste classification system that applies to solid and semi-solid waste, which cannot be discharged directly or indirectly to water of the state and which therefore must be discharged to land for treatment, storage, or disposal in accordance with Chapter 15. There are four classifications of waste (listed in order of highest to lowest threat to water quality): hazardous waste, designated waste, non-hazardous solid waste, and inert waste.

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

Water Quality Objective - Numerical or narrative limits on constituents or characteristics of water designated to protect designated beneficial uses of the water. [California Water Code Section 13050 (h)]. California’s water quality objectives are established by the State and Regional Water Boards in the Water Quality Control Plans. Numeric or narrative limits for pollutants or characteristics of water designed to protect the beneficial uses of the water. In other words, a water quality objective is the maximum concentration of a pollutant that can exist in a receiving water and still generally ensure that the beneficial uses of the receiving water remain protected (i.e., not impaired). Since water quality objectives are designed specifically to protect the beneficial uses, when the objectives are violated the beneficial uses are, by definition, no longer protected and become impaired. This is a fundamental concept under the Porter Cologne Act. Equally fundamental is Porter Cologne’s definition of pollution. A condition of pollution exists when the water quality needed to support designated beneficial uses has become unreasonably affected or impaired; in other words, when the water quality objectives have been violated. These underlying definitions (regarding beneficial use protection) are the reason why all waste discharge requirements implementing the federal NPDES regulations require compliance with water quality objectives. (Water quality objectives are also called water quality criteria in the CWA.)

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

Waters of the State - Any water, surface or underground, including saline waters within the boundaries of the State [CWC section 13050 (e)]. The definition of the Waters of the

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State is broader than that for the Waters of the United States in that all water in the State is considered to be a Waters of the State regardless of circumstances or condition. Under this definition, a MS4 is always considered to be a Waters of the State.

Waters of the United States - As defined in the 40 CFR 122.2, the Waters of the U.S. are defined as: "(a) All waters, which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide; (b) All interstate waters, including interstate "wetlands;" (c) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, "wetlands," sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation or destruction of which would affect or could affect interstate or foreign commerce including any such waters: (1) Which are or could be used by interstate or foreign travelers for recreational or other purposes; (2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or (3) Which are used or could be used for industrial purposes by industries in interstate commerce; (d) All impoundments of waters otherwise defined as waters of the United States under this definition; (e) Tributaries of waters identified in paragraphs (a) through (d) of this definition; (f) The territorial seas; and (g) "Wetlands" adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a) through (f) of this definition. Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with the EPA."

Watershed - That geographical area which drains to a specified point on a water course, usually a confluence of streams or rivers (also known as drainage area, catchment, or river basin).

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

WDRs – Waste Discharge Requirements

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Submittal	Permit Section	Completion Date	Frequency
Prohibitions on dry-weather discharges not listed in Section B.2	B.2	July 1, 2012, then in JRMP Annual Report	Annual
Submit Certified Statement of Adequate Legal Authority	E.2	June 30, 2012	One time
Updated SSMP	F.1.d, K.2.a	June 30, 2012	One time
Identify and remove barriers to LID implementation	F.1.d.(4)(a)(v)	With JRMP Annual Report	Annual
Hydromodification Management Plan	F.1.h.(5), K.2.b	June 30, 2013	One Time for Draft
Flood Control Structure BMP Inventory and Evaluation	F.3.a.(4)	With JRMP Annual Report	Annual
Retrofitting Program	F.3.d.(3)	With JRMP Annual Report	Annual
Updated Watershed Workplans	G.1 K.1.b	June 30, 2012	One time
Fiscal Analysis	H.3	With JRMP Annual Report	Annual
Updated Jurisdictional Runoff Management Plans	K.1.a	June 30, 2012	One time
Report of Waste Discharge	K.2.c	At least 180 days prior to expiration of this Order	One time
Principal Copermittee submits JRMP Annual Reports to Regional Board	K.3.a.(2)	October 31, 2013 and annually thereafter	Annual
Principal Copermittee submits Notification of Principal Copermittee	M	180 days after adoption of the Order	One Time

Jurisdictional Runoff Management Program Annual Report Checklist

In the JRMP Annual Report each Copermittee shall provide an Annual Report Checklist. The Annual Report Checklist must be no longer than 2 pages, be current as of the 1st day of the rainy season of that year, and include a signed certification statement. The Annual Report Summary Checklist must provide the following information:

Order Requirements

Were All Requirements of this Order Met?

Construction

Number of Active Sites
Number of Inactive Sites
Number of Sites Inspected
Number of Inspections
Number of Violations
Number of Construction Enforcement Actions Taken

New Development

Number of Development Plan Reviews
Number of Grading Permits Issued
Number of Projects Exempted from Interim/Final Hydromodification Requirements

Post Construction Development

Number of Priority Development Projects
Number of SUSMP Required Post-Construction BMP Inspections
Number of SUSMP Required Post-Construction BMP Violations
Number of SUSMP Required Post-Construction BMP Enforcement Actions Taken

Illicit Discharges and Connections

Number of IC/ID Inspections
Number of IC/ID Detections by Staff
Number of IC/ID Detections from the Public
Number of IC/ID Eliminations
Number of IC/ID Violations
Number of IC/ID Enforcement Actions Taken

MS4 Maintenance

Number of Inspections Conducted
Amount of Waste Removed
Total Miles of MS4 Inspected

Municipal/Commercial/Industrial

Number of Facilities
Number of Inspections Conducted
Number of Facilities Inspected
Number of Violations
Number of Enforcement Actions Taken

Attachment E

RECEIVING WATERS AND MS4 DISCHARGE MONITORING AND REPORTING PROGRAM NO. R9-2010-0016

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I. PURPOSE

- A. This Receiving Waters and MS4 Discharge Monitoring and Reporting Program (MRP) is intended to meet the following goals:
1. Assess compliance with Order No. R9-2010-0016;
 2. Measure and improve the effectiveness of the Copermittees' runoff management programs;
 3. Assess the chemical, physical, and biological impacts to receiving waters resulting from MS4 discharges;
 4. Characterize storm water discharges;
 5. Identify sources of specific pollutants;
 6. Prioritize drainage and sub-drainage areas that need management actions;
 7. Detect and eliminate illicit discharges and illicit connections to the MS4;
 8. Assess the overall health of receiving waters; and
 9. Provide information to implement required BMP improvements.
- B. This Receiving Waters and MS4 Discharges Monitoring and Reporting Program is designed to answer the following core management questions¹:
1. Are conditions in receiving waters protective, or likely to be protective, of beneficial uses?
 2. What is the extent and magnitude of the current or potential receiving water problems?
 3. What is the relative MS4 discharge contribution to the receiving water problem(s)?
 4. What are the sources of MS4 discharge that contribute to receiving water problem(s)?
 5. Are conditions in receiving waters getting better or worse?

II. MONITORING PROGRAM

The Monitoring Program is designed to assess the condition of receiving waters, monitor pollutants in storm and non-storm water effluent from the MS4, and conduct Special Studies to address conditions of concern. Where feasible, the Monitoring Program is designed to allow the Copermittees to combine required monitoring elements or efforts that are not mutually exclusive while still meeting the requirements of the Order.

¹ Core management questions from "Model Monitoring Program for Municipal Separate Storm Sewer Systems in Southern California: A report from the Stormwater Monitoring Coalition's Model Monitoring Technical Committee." Technical Report No. 419. August 2004.

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A. Receiving Waters Monitoring Program

Each Copermittee must collaborate with the other Copermittees to develop, conduct, and report on a year-round watershed based Receiving Waters Monitoring Program. The monitoring program design, implementation, analysis, assessment, and reporting must be conducted on a watershed basis for the Santa Margarita Hydrologic Unit (HU) and must be designed to meet the goals and answer the questions listed in section I above. The monitoring program must include the following components:

1. MASS LOADING STATION (MLS) MONITORING

- a. Locations: The following existing mass loading stations must continue to be monitored: Lower Temecula Creek, Lower Murrieta Creek at the USGS Weir, and a permanent reference station.² Copermittees may propose, for San Diego Water Board review and approval, changing the location of a mass loading station.
- b. Frequency: Each mass loading station must be monitored each year three times during wet weather events and twice during dry weather flow conditions.
- c. Timing: Each mass loading station must be monitored for the first wet weather event of the season which meets USEPA's criteria described in 40 CFR 122.21(g)(7). Monitoring of the third wet weather event must be conducted after February 1. Dry weather mass loading monitoring events must be sampled at least three months apart between May and October. If flows are not evident for the second event, then sampling must be conducted during non-rain events in the following wet weather season.
- d. Protocols: Protocols for mass loading sampling and analysis including analytical methods, target reporting limits, and data reporting formats must be compatible with the State Water Resources Control Board's (State Water Board's) State Surface Water Ambient Monitoring Program (SWAMP). If the mass loading sampling and analysis are determined to be impracticable with the SWAMP standards, the Copermittees must provide a written explanation and discussion in the submittal of the Planned Monitoring Program. Wet weather samples must be time-weighted composites, collected for the duration of the entire runoff event. Where such monitoring is not practical, such as for large watersheds with significant groundwater recharge flows, composites must be collected at a minimum during the first 3 hours of

² A map depicting mass loading stations can be found in the Fact Sheet for Order R9-2010-0016.

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flow. Dry weather event sampling must be time-weighted composites composed of 24 discrete hourly samples, whereby the mass loads of pollutants are calculated as the product of the composite sample concentration and the total volume of water discharged past the monitoring point during the time of sample collection.

- (1) Automatic samplers must be used to collect samples from mass loading stations.
 - (2) Grab samples must be analyzed for temperature, pH, specific conductance, biochemical oxygen demand, oil and grease, E. coli , fecal coliform, enterococcus and for total petroleum hydrocarbons whenever a sheen is observed.
- e. Copermittees must measure or estimate flow rates and volumes for each mass loading station sampling event to determine mass loadings of pollutants. Data from nearby USGS gauging stations may be utilized, or flow rates may be estimated in accordance with the USEPA Storm Water Sampling Guidance Document (EPA-833-B-92-001), Section 3.2.1.
 - f. In the event that the required number of sampling events are not conducted during one monitoring year at any given station, the Copermittees must provide a written explanation for the reduced number of sampling events in the subsequent Receiving Waters Monitoring Annual Report. The explanation must include, at a minimum, streamflow data from the nearest USGS gauging station, a full description of any equipment failures and subsequent remedies if applicable, efforts made to resample a future event, and any quality assurance or quality control issues encountered. The explanation must also include a description of steps taken to prevent further sampling failures.
 - g. The following constituents must be analyzed for each monitoring event at each station:

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Table 1. Analytical Testing for Mass Loading (II.A.1) and Stream Assessment (II.A.2)

Conventionals, Nutrients, Hydrocarbons	Pesticides	Metals (Total and Dissolved)	Bacteriological (mass loading)
<ul style="list-style-type: none"> • Total Dissolved Solids • Total Suspended Solids • Turbidity • Total Hardness • pH • Specific Conductance • Temperature • Dissolved Oxygen • Total Phosphorus • Dissolved Phosphorus • Nitrite[°] • Nitrate[°] • Total Kjeldahl Nitrogen • Ammonia • Biological Oxygen Demand, 5-day • Chemical Oxygen Demand • Total Organic Carbon • Dissolved Organic Carbon • Methylene Blue Active Substances • Oil and Grease • Sulfate 	<ul style="list-style-type: none"> • Diazinon • Chlorpyrifos • Malathion • Carbamates • Pyrethroids 	<ul style="list-style-type: none"> • Arsenic • Cadmium • Total Chromium • Hexavalent Chromium • Copper • Lead • Iron • Manganese • Nickel • Selenium • Zinc • Mercury • Silver • Thallium 	<ul style="list-style-type: none"> • E. coli • Fecal Coliform • Enterococcus
[°] Nitrate and nitrite may be combined and reported as nitrate + nitrite.			

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- h. Toxicity testing must be conducted for each monitoring event at each station according to the following Table 2:

Table 2. Toxicity Testing for Mass Loading (II.A.1) and Stream Assessment (II.A.2)

Program Component	Dry Weather Flows	Storm Water Flows
	Freshwater Organisms	Freshwater Organisms
Mass Loading	3 chronic* 3 acute*	3 acute*
Bioassessment**	3 chronic* 3 acute*	n/a
Sediment Toxicity Special Study	1 chronic 1 acute	n/a

Table Notes
 * Toxicity testing must include use of *Pimephales promelas* (fathead minnow), *Hyalella azteca* and *Pseudokirchneriella subcapitata* (formerly *Selenastrum capricornutum*, unicellular algae).
 ** Duplicative toxicity testing is not required for Stream Assessment Monitoring stations co-located at mass loading stations since Stream Assessment Monitoring must be conducted in conjunction with dry weather mass loading.

Species Notes:
 1. Acute toxicity may be determined during the course of chronic toxicity monitoring per U.S. EPA protocols.

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

2. Stream Assessment Monitoring

Copermittees must conduct Stream Assessment Monitoring using multiple lines of evidence to assess the condition of biological communities in freshwater receiving waters. Stream assessment must include the collection and reporting of the following specified instream biological, chemical, and physical (including habitat) data.

- a. Locations: At a minimum, the program must consist of station identification, sampling, monitoring, and analysis of data for six stream assessment stations in order to determine the biological, chemical and physical integrity of streams within the County of Riverside. The two existing mass loading stations at Murrieta and Temecula Creeks must continue to be monitored. Two reference stream assessment stations, including the existing Adobe Creek station, must be identified, sampled, monitored, and analyzed. Locations of reference stations

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must be identified according to protocols outlined in “A Quantitative Tool for Assessing the Integrity of Southern Coastal California Streams,” by Ode, et al. 2005.³

- b. Frequency: Stream assessment stations must be monitored in May or June (to represent the influence of wet weather on the communities) and September or October (to represent the influence of dry weather flows on the communities). The timing of monitoring of stream assessment stations located at mass loading stations must coincide with dry weather monitoring of those mass loading stations.
- c. Parameters / Methods: Stream assessment monitoring must include bioassessment, aquatic chemistry, and aqueous toxicity.
 - (1) Aquatic chemistry and aqueous toxicity must be conducted as outlined in Tables 1 and 2 using the same parameters and methods as the mass loading station monitoring.
 - (2) Bioassessment analysis procedures must include calculation of the Index of Biotic Integrity (IBI) for benthic macroinvertebrates for all bioassessment stations, as outlined in “A Quantitative Tool for Assessing the Integrity of Southern Coastal California Streams,” by Ode, et al. 2005.
 - (3) Monitoring of stream assessment stations must be conducted according to bioassessment Standard Operating Procedures (SOP) developed by the Surface Water Ambient Monitoring Program (SWAMP), as amended.⁴ In collecting macroinvertebrate samples, the discharger must use the “Reachwide Benthos (Multihabitat) Procedure.” The discharger must conduct, concurrently with all required macroinvertebrate collections, the “full” suite of physical/habitat characterization measurements specified in the SWAMP Bioassessment SOP, and as summarized in the *SWAMP Stream Habitat Characterization Form — Full Version*.⁵
 - (4) Monitoring of stream assessment stations must incorporate assessment of algae using SWAMP’s SOP for Collecting Stream

³ Ode, et al. 2005. “A Quantitative Tool for Assessing the Integrity of Southern Coastal California Streams.” Environmental Management. Vol. 35, No. 1, pp. 1-13.

⁴ Ode, P.R.. 2007. Standard operating procedures for collecting macroinvertebrate samples and associated physical and chemical data for ambient bioassessments in California. California State Water Resources Control Board Surface Water Ambient Monitoring Program (SWAMP) Bioassessment SOP 001.

⁵ Available at:

http://www.waterboards.ca.gov/water_issues/programs/swamp/docs/reports/fieldforms_fullversion052908.pdf

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Algae Samples.⁶ Assessment of freshwater algae must include algal taxonomic composition (diatoms and soft algae) and algal biomass. Future bioassessment must incorporate algal IBI scores, when developed.

- d. A qualified professional environmental laboratory must perform all sampling, laboratory, quality assurance, and analytical procedures in accordance with the Southern California Regional Watershed Monitoring Program Bioassessment Quality Assurance Project Plan.⁷ The Copermittees must utilize future Quality Assurance Project Plans as developed by SWAMP.
 - (1) The Copermittees must have and follow a quality assurance (QA) plan that covers the required stream assessment monitoring. External QA checks must be funded by the Copermittees, and performed by the California Department of Fish and Game's Aquatic Bioassessment Laboratory. An alternate laboratory with equivalent expertise and performance may be used if approved in advance in writing by San Diego Water Board.
 - (2) Identified organisms must be archived (i.e., retained) by the Copermittee(s) for a period of not less than three years from the date that all QA steps are completed. The identified organisms must be relinquished to the San Diego Water Board upon request by the San Diego Water Board.
 - (3) The macroinvertebrate results (i.e., taxonomic identifications consistent with the specified SAFIT STEs, and number of organisms within each taxa) must be submitted to the San Diego Water Board in electronic format. SWAMP is currently developing standardized formats for reporting bioassessment data. All bioassessment data collected after those formats become available must be submitted using the SWAMP formats. Until those formats are available, the biological data must be submitted in MS-Excel⁸ (or equivalent) format.

The physical/habitat data must be reported using the standard format titled *SWAMP Stream Habitat Characterization Form — Full Version*.

⁶ Fetcher et al. 2009. Standard Operating Procedures for Collecting Stream Algae Samples and Associated Physical Habitat and Chemical Data for Ambient Bioassessments in California.

⁷ Version 1.0 of the Southern California Regional Watershed Monitoring Program Bioassessment Quality Assurance Program Plan was released on June 25, 2009.

⁸ Any version of Excel, 2000 or later, may be used.

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3. FOLLOW-UP ANALYSIS AND ACTIONS (TIE AND TRE TRIAD APPROACH)

When results from the required monitoring indicate adverse water quality effects at a mass loading station or stream assessment station as defined in Table 3, Copermittees within the watershed(s) that discharge to that location must evaluate the extent and causes of MS4 discharge pollution to the adverse effects in receiving waters and prioritize and implement management actions to eliminate non-storm water discharges and/or reduce storm water sources from the MS4 as described in Table 3. Toxicity Identification Evaluations (TIEs) must be conducted to determine the cause of toxicity as outlined in Table 3 below. Other follow-up activities, which must be conducted by the Copermittees, are also identified in Table 3. Once the cause of toxicity has been identified by a TIE, the Copermittees must perform source identification projects as needed and implement the measures necessary to reduce or eliminate the pollutant discharges and abate the sources causing the toxicity.

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Table 3. Triad Approach to Determining Follow-Up Actions⁹

Chemistry	Toxicity	Benthic Alteration	Example Conclusions	Possible Actions or Decisions
1. Exceedance of water quality objectives	Evidence of toxicity	Indications of alteration	Strong evidence of pollution-induced degradation	Use TIE to identify contaminants of concern, based on TIE metric Initiate upstream source identification as a high priority
2. No persistent exceedances of water quality objectives	No evidence of toxicity	No indications of alteration	No evidence of current pollution-induced degradation Potentially harmful pollutants not yet concentrated enough to cause visible impact	No immediate action necessary Conduct periodic broad scans for new and/or potentially harmful pollutants
3. Exceedance of water quality objectives	No evidence of toxicity	No indications of alteration	Contaminants are not bioavailable Test organisms not sensitive to problem pollutants	TIE would not provide useful information with no evidence of toxicity Continue monitoring for toxic and benthic impacts Initiate upstream source identification as a low priority Consider whether different or additional test organisms should be evaluated
4. No persistent exceedances of water quality objectives	Evidence of toxicity	No indications of alteration	Unmeasured contaminant(s) or conditions have the potential to cause degradation Pollutant causing toxicity at very low levels	Recheck chemical analyses; verify toxicity test results Consider additional advanced chemical analyses Use TIE to identify contaminants of concern, based on TIE metric Initiate upstream source identification as a medium priority
5. No persistent exceedances of water quality objectives	No evidence of toxicity	Indications of alteration	Alteration may not be due to toxic contamination Test organisms not sensitive to problem pollutants	No action necessary due to toxic chemicals Initiate upstream source identification (for physical sources) as a high priority Consider whether different or additional test organisms should be evaluated
6. Exceedance of water quality objectives	Evidence of toxicity	No indications of alteration	Toxic contaminants are bioavailable, but in situ effects are not demonstrable Benthic analysis not sensitive enough to detect impact Potentially harmful pollutants not yet concentrated enough to change community	Determine if chemical and toxicity tests indicate persistent degradation Recheck benthic analyses; consider additional data analyses If recheck indicates benthic alteration, perform TIE to identify contaminants of concern, based on TIE metric Initiate upstream source identification as a high priority If recheck shows no effect, use TIE to identify contaminants of concern, based on TIE metric Initiate upstream source identification as a medium priority
7. No persistent exceedances of water quality objectives	Evidence of toxicity	Indications of alteration	Unmeasured toxic contaminants are causing degradation Pollutant causing toxicity at very low levels Benthic impact due to habitat disturbance, not toxicity	Recheck chemical analyses and consider additional advanced analyses Use TIE to identify contaminants of concern, based on TIE metric Initiate upstream source identification as a high priority Consider potential role of physical habitat disturbance
8. Exceedance of water quality objectives	No evidence of toxicity	Indications of alteration	Test organisms not sensitive to problem pollutants Benthic impact due to habitat disturbance, not toxicity	TIE would not provide useful information with no evidence of toxicity Initiate upstream source identification as a high priority Consider whether different or additional test organisms should be evaluated Consider potential role of physical habitat disturbance

4. REGIONAL MONITORING PROGRAMS

The San Diego Water Board recognizes the importance and advantages of participation by Copermittees in Regional Monitoring Programs. As such, the Copermittees may propose participation in additional regional monitoring programs to supplement and/or replace monitoring required under this Order. The regional monitoring plan must be submitted to the San Diego Water Board¹⁰ for review and approval. Documentation of

⁹ Model Monitoring Program for Municipal Separate Storm Sewer Systems in Southern California. Stormwater Monitoring Coalition August 2004. See Table 5-4 for definitions.

¹⁰ For the purposes of Receiving Waters and MS4 Discharge Monitoring and Reporting Program No. R9-2010-0016, review and approval by the San Diego Water Board of draft monitoring plans, proposals or protocols shall be conducted by the San Diego Water Board Executive Officer.

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participation and monitoring must be included in the annual report(s).

B. Wet Weather MS4 Discharge Monitoring

Each Copermittee must collaborate with the other Copermittees to develop, conduct, and report on a year-round, watershed-based, Wet Weather MS4 Discharge Monitoring Program. The monitoring program design, implementation, analysis, assessment, and reporting must be conducted on a watershed basis for each of the hydrologic subareas within the Santa Margarita HU under jurisdiction of the Copermittees. The monitoring program must be designed to meet the goals, and answer the questions, listed in Section I above, as well as to implement required Storm Water Action Levels (SALs) in the Order. The monitoring program must include the following components;

1. MS4 OUTFALL MONITORING

The Copermittees must collaborate to develop and implement a monitoring program to characterize pollutant discharges from MS4 outfalls in each watershed during wet weather. The program must include the rationale and criteria for selection of outfalls to be monitored. The program must, at a minimum, include collection of samples for pollutants listed in Table 4 (below). This monitoring program must be designed to sample a representative percentage¹¹ of the major outfalls within each hydrologic subarea and must begin no later than the 2012-2013 monitoring year.

a. The program must comply with Section D of this Order for Storm Water Action Levels (SALs). Samples must be collected during the first 24 hours of the storm water discharge or for the entire storm water discharge if it is less than 24 hours.

(1) Grab samples may be utilized only for pH, indicator bacteria, DO, temperature and hardness.

(2) All other constituents must be sampled using 24-hour composite samples or for the entire storm water discharge if the storm event is less than 24 hours.

b. Sampling to compare MS4 outfall discharges with total metal SALs must include a measurement of receiving water hardness at each

¹¹ A representative percentage determination must consider hydrologic conditions, total drainage area of the site, population density of the site, traffic density, age of the structures or buildings in the area, and land use types (commercial, residential and industrial).

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outfall. If a total metal concentration exceeds a SAL in Section D of the Order, that concentration must be compared to the California Toxic Rule criteria and the USEPA 1-hour maximum concentration for the detected level of receiving water hardness associated with that sample. If it is determined that the sample's total metal concentration for that specific pollutant exceeds the SAL but does not exceed the applicable 1-hour criteria for the measured level of hardness, then the SAL shall be considered not exceeded for that measurement.

Table 4. Analytical Testing for Wet Weather MS4 Discharges

Conventionals, Nutrients, Hydrocarbons	Pesticides	Metals (Total and Dissolved)	Bacteriological
<ul style="list-style-type: none"> • Total Dissolved Solids • Total Suspended Solids • Turbidity* • Total Hardness • pH • Specific Conductance • Temperature • Dissolved Oxygen • Total Phosphorus* • Dissolved Phosphorus • Nitrite * • Nitrate * • Total Kjeldahl Nitrogen • Ammonia • Biological Oxygen Demand, 5-day • Chemical Oxygen Demand • Total Organic Carbon • Dissolved Organic Carbon • Oil and Grease • Sulfate 	<ul style="list-style-type: none"> • Diazinon • Chlorpyrifos • Pyrethroids 	<ul style="list-style-type: none"> • Arsenic • Cadmium* • Chromium • Copper* • Lead* • Nickel • Selenium • Zinc* • Mercury • Silver • Thallium • Iron • Manganese 	<ul style="list-style-type: none"> • Fecal Coliform • Enterococcus • E. coli
<p>° Nitrate and nitrite may be combined and reported as nitrate + nitrite. ★Pollutant for which there is a Storm Water Action Level</p>			

2. SOURCE IDENTIFICATION MONITORING

The Copermittees must collaborate to develop and implement a monitoring program to identify sources of pollutants causing the priority water quality problems within each hydrologic subarea. The monitoring program must include focused monitoring which moves upstream into each watershed as necessary to identify sources. This monitoring program must be implemented within each hydrologic subarea and must begin no later than the 2012-2013 monitoring year.

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3. COMMENCEMENT OF MS4 OUTFALL AND SOURCE IDENTIFICATION MONITORING

The Principal Copermittee must submit to the San Diego Water Board for review and approval, a detailed draft of the wet weather MS4 discharge monitoring program to be implemented. The description must identify and provide the rationale for all constituents monitored, locations of monitoring, frequency of monitoring, and analyses to be conducted with the data generated. The draft must be submitted with the proposed monitoring program (Section III.A.1).

C. Non-Storm Water Dry Weather Action Levels and Illicit Discharge Detection and Elimination

Each Copermittee must collaborate with the other Copermittees to conduct, and report on a year-round watershed based Dry Weather Non-storm Water MS4 Discharge Monitoring Program. The monitoring program's implementation, analysis, assessment, and reporting must be conducted to assess compliance with section B and C of this Order, meet the goals of the MRP, and conduct Illicit Discharge Detection and Elimination Activities under Section F.4 of this Order. The monitoring program must also be designed to assess the contribution of dry weather flows to Clean Water Act Section 303(d) listed impairments. The monitoring program must include the following components:

1. MS4 OUTFALL MONITORING

Each Copermittee's program must be designed to determine levels of pollutants in effluent discharges from the MS4 into receiving waters. Each Copermittee must conduct the following dry weather field screening and analytical monitoring tasks:

a. Dry Weather Non-storm Water Effluent Analytical Monitoring Station Identification

(1) Sampling Stations must be located at major outfalls pursuant to section C of this Order. Other outfall sampling points (or any other point of access such as manholes) identified by the Copermittees as potential high risk sources of polluted effluent or as identified under Section C.4 of the Order must be sampled.

(2) Each Copermittee must clearly identify each dry weather effluent analytical monitoring station on its MS4 Map as either a separate GIS layer or a map overlay hereinafter referred to as a Dry Weather

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Non-storm Water Effluent Analytical Stations Map.

b. Develop Dry Weather Non-storm Water Effluent Analytical Monitoring Procedures

Each Copermittee must develop and/or update written procedures for effluent analytical monitoring including field observations, monitoring, and analyses to be conducted. These procedures must be consistent with 40 CFR part 136. At a minimum, the procedures must meet the following guidelines and criteria:

- (1) Determining Sampling Frequency: Effluent analytical monitoring must be conducted at major outfalls and identified stations. The Copermittees must sample a representative number of major outfalls and identified stations within each hydrologic subarea.¹² The sampling must be done to assess compliance with dry weather non-storm water action levels pursuant to section C of this Order. All monitoring conducted must be preceded by a minimum of 72 hours of dry weather.
- (2) Sampling of non-storm water discharges may be done utilizing grab samples. If a ponded MS4 discharge is observed at a monitoring station, the Copermittee(s) must record the observation and collect at least one (1) grab sample. If flow is evident, a 1-hour composite sample may be taken. The Copermittee(s) must estimate the flow by measuring the width of water surface, approximate depth of water, and approximate flow velocity.
- (3) Effluent samples must undergo analytical laboratory analysis for (a) all constituents described in *Table 1. Analytical Testing for Mass Loading and Stream Assessment* of this Order; (b) Constituents with assigned non-storm water action levels under Section C of this Order; and (c) Total Residual Chlorine.
- (4) If the station is dry (i.e. no flowing or ponded MS4 discharge is observed), the Copermittee(s) must make and record all applicable observations on the MS4 outfall and receiving waters, including any evidence of past non-storm water flows and the presence of trash.

¹² A representative percentage determination must consider hydrologic conditions, total drainage area of the site, population density of the site, traffic density, age of the structures or buildings in the area, and land use types (commercial, residential and industrial).

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2. SOURCE IDENTIFICATION MONITORING

The Copermittees must collaborate to develop and implement a monitoring program to identify sources of pollutants in non-storm water discharges in accordance with Sections C and F.4 of this Order. The source identification portion of the monitoring program must include: the following components:

- a. Development and/or update of response criteria for dry weather non-storm water effluent analytical monitoring results:
 - (1) Response criteria must include action levels described in Section C of this Order.
 - (2) Response criteria must include evaluation of LC₅₀ levels for toxicity to appropriate test organisms.
- b. Develop and/or update Illicit Discharge Detection and Elimination response procedures for source identification follow up investigations and elimination in the event of exceedance of dry weather non-storm water effluent analytical monitoring response criteria (see above). These procedures must be consistent with procedures required in section C, F.4.d, and F.4.e. of this Order.

3. COMMENCEMENT OF MS4 OUTFALL AND SOURCE IDENTIFICATION MONITORING

The Copermittees must commence implementation of dry weather effluent analytical monitoring under the requirements of this Order no later than **July 1, 2012**. If monitoring indicates an illicit connection or illegal discharge, the Copermittee(s) must conduct the follow-up investigation and elimination activities described in sections C, F.4.d and F.4.e of this Order. In the interim period until the dry weather non-storm water effluent analytical monitoring program of this Order is implemented, each Copermittee must continue to implement dry weather field screening and analytical monitoring as it was most recently implemented pursuant to Order No. 2004-001.

D. High Priority Inland Aquatic Habitat Monitoring

The Copermittees must develop and submit to the San Diego Water Board by April 01, 2012, an inland aquatic habitat monitoring program for areas supporting high priority aquatic and/or riparian species. The goal of the monitoring program is to assess if MS4 storm water and non-storm water discharges are affecting high priority inland aquatic habitat. The monitoring

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will assist the Copermittees in preventing the degradation of high quality waters within the jurisdiction of this Order that support high priority species by identifying discharges from MS4s which may cause or have the potential to cause impairment of beneficial uses within these areas.¹³ High priority species include those federally and/or state listed as endangered, threatened, or as a species of concern. The design and goal of the monitoring program must be consistent with the criteria listed in Section I.B of this Monitoring Program, including evaluation of the protection of high priority species in receiving waters. The Copermittees must implement the program unless otherwise directed in writing by the San Diego Water Board.

The monitoring program must include the following components:

1. OUTFALL AND RECEIVING WATER MONITORING

The program must be designed to determine levels of pollutants in storm water and non-storm water effluent discharges from the MS4 discharged into high priority inland aquatic habitat(s) and the level of those pollutants found in ambient receiving waters subject to the discharge. The Copermittees must conduct the following field screening and analytical monitoring tasks:

a. MS4 and Receiving Waters Monitoring Station Identification

- (1) MS4 discharge stations must be major outfalls that directly discharge into high priority inland aquatic habitat. MS4 discharge stations may be selected in conjunction with monitoring required under Section II.B and II.C of the Receiving Waters and MS4 Discharge Monitoring Program.
- (2) Receiving water station(s) must be located upstream and downstream of the discharge within the high priority inland aquatic habitat. Receiving water stations must be located to prevent any significant co-mingling of receiving water flows with other sources.

b. Develop Analytical Monitoring Procedures

Each Copermittee must develop procedures for analytical monitoring (these procedures must be consistent with 40 CFR part 136), including field observations, pollutants to be monitored, analyses to be conducted, and quality assurance/control. At a minimum, the procedures must meet the following guidelines and criteria:

¹³ In accordance with requirements of State Water Resources Control Board Resolution No. 68-16, Statement of Policy with Respect to Maintaining High Quality Waters in California.

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- (1) Determining Sampling Frequency: The Copermittees must sample a representative number of major outfalls and receiving waters that are considered high priority inland aquatic habitat. Sampling of the discharge and receiving waters must be paired and occur during both storm and non-storm conditions.
- (2) Sampling in receiving waters may be done utilizing grab samples, though composite samples are encouraged. Sampling of storm and non-storm water discharges from the MS4 must be done in accordance with Section II.B and II.C. If ponded receiving waters is/are observed at a monitoring station, the Copermittees must make written observations and collect at least one (1) grab sample. The Copermittee(s) must estimate the flow by measuring the width of water surface, approximate depth of water, and approximate flow velocity
- (3) The proposed constituents for which samples will undergo analytical laboratory analysis.
- (4) Procedures for recording applicable observations when monitoring stations are dry (i.e. no flowing water or ponded conditions).

3. ASSESSMENT OF MONITORING RESULTS

The program must include a discussion of monitoring results within the monitoring annual report. The discussion must include an evaluation of the contribution of MS4 discharges to ambient water conditions within high priority inland aquatic habitats, as well as any actions taken to prevent and/or reduce sources of those pollutants.

4. SOURCE IDENTIFICATION MONITORING

The Copermittees must collaborate to conduct source identification monitoring in accordance with Section II.B and II.C of the Monitoring and Reporting Program of this Order.

E. Special Studies

1. The Copermittees must conduct special studies, including any monitoring and/or modeling required for TMDL development and implementation, as directed by the San Diego Water Board.

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2. Sediment Toxicity Study

The Copermitees must develop and submit to the San Diego Water Board by April 01, 2012, a special study workplan to investigate the toxicity of sediment in streams and potential impact on benthic macroinvertebrate IBI scores. The Sediment Toxicity Special Study must be implemented in conjunction with the Stream Assessment Monitoring in II.A.2. The Copermitees must implement the special study unless otherwise directed in writing by the San Diego Water Board.

The Sediment Toxicity Special Study must include the following elements:

- a. Sampling Locations: At least 4 stream assessment locations must be sampled, including 1 reference site and 1 mass loading site. Selection of sites must be done with consideration of subjectivity of receiving waters to discharges from residential and agricultural land uses.
- b. Frequency: At a minimum, sampling must occur once per year at each site for at least 2 years. Sampling must be done in conjunction with the stream assessment sampling required under Section II.A.2 of the Monitoring and Reporting Program of this Order.
- c. Parameters/Methods: 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* in accordance with Table 2.
- d. Results: Results and a Discussion must be included in the Monitoring Annual Report (see III.A). The Discussion must include an assessment of the relationship between observed IBI scores under Section II.A.2 and all variables measured.

3. Trash and Litter Investigation

The Copermitees must develop and submit to the San Diego Water Board by September 01, 2012, a special study workplan to assess trash (including litter) as a pollutant within receiving waters on a watershed based scale. Litter is defined in California Government Code 68055.1g as "...improperly discarded waste material, including, but not limited to, convenience food, beverage, and other product packages or container constructed of steel, aluminum, glass, paper, plastic and other natural and synthetic, materials, thrown or deposited on lands and waters of the state,

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but not including the properly discarded waste of the primary processing of agriculture, mining, logging, sawmilling, or manufacturing.” A lead Copermittee must be selected for the Santa Margarita HU for the purposes of this Special Study. The Copermittees must implement the special study unless otherwise directed in writing by the San Diego Water Board

The Trash and Litter Investigation must include the following elements:

- a. Locations: The lead Copermittee must identify suitable sampling locations within the Santa Margarita HU.
- b. Frequency: Trash at each location must be monitored a minimum of twice during the wet season following a qualified monitoring storm event (minimum of 0.1 inches preceded by 72 hours of dry weather) and twice during the dry season.
- c. Protocol: The lead Copermittee for the Santa Margarita HU 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 for the Santa Margarita HU.
- d. Results and Discussion from the Trash and Litter Study must be included in the Monitoring Annual Report. The Results and Discussion 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.

4. Agricultural, Federal and Tribal Input Study

The Copermittees must develop and submit to the San Diego Water Board by September 01, 2012, a special study workplan to investigate the water quality of agricultural, federal and tribal runoff that is discharged into their MS4 (see Finding D.3.c of the Order). The Copermittees must implement the special study unless otherwise directed in writing by the San Diego Water Board.

The Agricultural, Federal and Tribal Input Special Study must include the following elements:

- a. Locations: The Copermittees 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

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other source. At least one station from each category must be identified.

- b. Frequency: One storm event must be monitored at each sampling location each year for at least 2 years.
- c. Parameters/Methods: At a minimum, analysis must include those constituents listed in Table 1 of the MRP (see II.A.1). Grab samples may be utilized, though composite samples are preferred. Copermittees must also measure or estimate flow rates and volumes of discharges into the MS4.
- d. Results: Results and Discussion from the Agricultural, Federal and Tribal Input Study must be included in the Monitoring Annual Report.

5. MS4 and Receiving Water Maintenance Study

The Copermittees must develop and submit to the San Diego Water Board by April 01, 2012, a special study workplan to investigate receiving waters that are also considered part of the MS4 (see Finding D.3.c of the Order) and which are subject to continual vegetative clearance activities (e.g. mowing). The study must be designed to assess the effects of 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 Copermittees must implement the special study unless otherwise directed in writing by the San Diego Water Board.

The MS4 and Receiving Water Maintenance Special Study must include the following elements:

- a. Locations: The Copermittees must identify suitable sampling locations, including at least one reference system that is not subject to maintenance activities.
- b. Parameters/Methods: At a minimum, the Copermittees must monitor pre and post maintenance activities for indicator bacteria, turbidity (NTU), temperature, dissolved oxygen and nutrients (Nitrite, Nitrate, Total Kjeldahl Nitrogen, Ammonia and Total Phosphorous). Copermittees must also measure or estimate flow rates and volumes.
- c. Results and Discussion from the MS4 and Receiving Water Maintenance Study must be included in the Annual Monitoring Report. The Discussion must include relevance of findings to CWA Section

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303(d) listed impaired waters.

6. Intermittent and Ephemeral Stream Perennial Conversion Study

The Copermittees must develop and submit to the San Diego Water Board by April 01, 2013, a special study workplan to investigate the extent of any impacts to beneficial uses from the conversion of historically ephemeral or intermittent receiving waters to perennially flowing waters due to the continued discharge of currently exempted non-storm water from the MS4 and/or discharges into MS4s covered under a separate NPDES permit into receiving waters. The goal of the study is to assess if any impacts to beneficial uses, including, but not limited to, WILD, WARM, COLD or RARE, have occurred due to continuous discharge of currently exempted non-storm water discharges, and if the discharges should no longer be exempt. The Copermittees must implement the special study unless otherwise directed in writing by the San Diego Water Board.

The Intermittent and Ephemeral Stream Perennial Conversion Special Study must include the following elements:

- a. Locations: The Copermittees must investigate their MS4 and adjacent downstream receiving waters to identify portions that have historically been ephemeral or intermittent but currently exhibit perennial flow due to exempted non-storm water discharges. Investigation must include historic habitat assessments, USGS gauging information, and historic aerial photography. Sampling must occur at a minimum of 2 identified perennially converted locations. Should the Copermittees be unable to locate any converted waters, a full description of the investigation must be documented in the annual report.
- b. Parameters/Methods: The Copermittees must conduct water quality monitoring of the non-storm water discharge in accordance with Section C of this Order. In addition, the Copermittees must select a minimum of 2 downstream sampling points within the receiving waters subject the discharge and conduct the following:
 - (1) Grab samples must be taken and analyzed for indicator bacteria, nutrients (Nitrite, Nitrate, Total Kjeldahl Nitrogen, Ammonia and Total Phosphorous), turbidity (NTU), temperature, dissolved oxygen, total hardness, pH and 303(d) listed pollutants for all receiving waters at or downstream of the sampling site. The Copermittees must measure or estimate flow rates and volumes at each sampling point.

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(2) Sampling at each site must include a quantitative and qualitative evaluation of beneficial uses. At a minimum, sampling must include observation estimation of active bed and bank erosion and erosion potential, invasive/non-native plant cover, aquatic non-native species, and potential vector control requirements.

- c. Results and Discussion from the Intermittent and Ephemeral Stream Perennial Conversion Study must be included in the Annual Monitoring Report.

F. Monitoring Provisions

All monitoring activities must meet the following requirements:

1. Where procedures are not otherwise specified in this Receiving Waters Monitoring and Reporting Program, sampling, analysis and quality assurance/quality control must be conducted in accordance with the Quality Assurance Management Plan (QAMP) for the State of California's Surface Water Ambient Monitoring Program (SWAMP), adopted by the State Water Resources Control Board (SWRCB).
2. Samples and measurements taken for the purpose of monitoring must be representative of the monitored activity [40 CFR 122.41(j)(1)].
3. The Copermittees must retain records of all monitoring information, including all calibration and maintenance of monitoring instrumentation, copies of all reports required by this Order, and records of all data used to complete the Report of Waste Discharge and application for this Order, for a period of at least five (5) years from the date of the sample, measurement, report, or application. This period may be extended by request of the San Diego Water Board or USEPA at any time and must be extended during the course of any unresolved litigation regarding this discharge. [40 CFR 122.41(j)(2), CWC section 13383(a)]
4. Records of monitoring information must include [40 CFR 122.41(j)(3)]:
 - a. The date, exact place, and time of sampling or measurements;
 - b. The individual(s) who performed the sampling or measurements;
 - c. The date(s) analyses were performed;
 - d. The individual(s) who performed the analyses;
 - e. The analytical techniques or methods used; and
 - f. The results of such analyses.

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5. All sampling, sample preservation, and analyses must be conducted according to test procedures approved under 40 CFR part 136, unless other test procedures have been specified in this Receiving Waters Monitoring and Reporting Program or approved by the San Diego Water Board [40 CFR 122.41(j)(4)].
6. The CWA provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this Order must, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than two years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than four years, or both. [40 CFR 122.41(j)(5)]
7. Calculations for all limitations which require averaging of measurements must utilize an arithmetic mean unless otherwise specified in this Receiving Waters Monitoring and Reporting Program. [40 CFR 122.41(l)(4)(iii)]
8. All chemical, bacteriological, and toxicity analyses must be conducted at a laboratory certified for such analyses by the California Department of Health Services or a laboratory approved by the San Diego Water Board.
9. For priority toxic pollutants that are identified in the California Toxics Rule (CTR) (65 Fed. Reg. 31682), the Copermittees must instruct their laboratories to establish calibration standards that are equivalent to or lower than the Minimum Levels (MLs) published in Appendix 4 of the Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (SIP). If a Copermittee can demonstrate that a particular ML is not attainable, in accordance with procedures set forth in 40 CFR 136, the lowest quantifiable concentration of the lowest calibration standard analyzed by a specific analytical procedure (assuming that all the method specified sample weights, volumes, and processing steps have been followed) may be used instead of the ML listed in Appendix 4 of the SIP. The Copermittee must submit documentation from the laboratory to the San Diego Water Board for approval prior to raising the ML for any priority toxic pollutant.
10. The San Diego Water Board may make revisions to this Receiving Waters and MS4 Discharge Monitoring and Reporting Program at any time during the term of Order No. R9-2010-0016 and may include a reduction or increase in the number of parameters to be monitored, locations monitored, the frequency of monitoring, or the number and size of

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samples collected.

11. The Clean Water Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or non-compliance must, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than six months per violation, or by both. [40 CFR 122.41(k)(2)]
12. Monitoring must be conducted according the USEPA test procedures approved under 40 CFR 136, "Guidelines Establishing Test Procedures for Analysis of Pollutants under the Clean Water Act" as amended, unless other test procedures have been specified in this Receiving Waters and MS4 Discharge Monitoring and Reporting Program, in Order No. R9-2010-0016, or by the San Diego Water Board.
13. If a Copermittee(s) monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR part 136, unless otherwise specified in the Order, the results of this monitoring must be included in the calculation and reporting of the data submitted in the reports requested by the San Diego Water Board. [40 CFR 122.41(l)(4)(ii)]

III. REPORTING PROGRAM

A. Monitoring Reporting

1. Planned Monitoring Program: The Principal Copermittee must submit to the San Diego Water Board by **June 1, 2012**, a proposed workplan describing the Receiving Waters and MS4 Discharge Monitoring Program to be implemented. Any updates to the planned monitoring program workplan proposed by the Copermittees shall be submitted with each Monitoring Annual Report. The Copermittees shall implement the proposed workplan unless otherwise directed in writing by the San Diego Water Board.
2. Monitoring Annual Report: The Principal Copermittee must submit the Receiving Waters and MS4 Discharge Monitoring Annual Report to the San Diego Water Board on October 1 of each year, beginning on **October 1, 2013**. Receiving Waters and MS4 Discharge Monitoring Annual Reports must meet the following requirements:

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- a. Annual monitoring reports must include the data/results, methods of evaluating the data, graphical summaries of the data, and an explanation/discussion of the data for each monitoring program component.
- b. Annual monitoring reports must include a watershed-based analysis of the findings of each monitoring program component (mass loading, bioassessment, etc...). Each watershed-based analysis must include:
 - (1) Identification and prioritization of water quality problems within each watershed.
 - (2) Identification and description of the nature and magnitude of potential sources of the water quality problems within each watershed.
 - (3) Evaluation and presentation of pollutant load and concentration increases or decreases at each mass loading station over time.
 - (4) Evaluation of pollutant loads and concentrations measured at mass loading stations with respect to land use, population, sources, and other characteristics of watersheds using tools such as multiple linear regression, factor analysis, and cluster analysis.
 - (5) Identification of links between source activities/conditions and observed receiving water impacts.
 - (6) Identification of recommended future monitoring to identify and address sources of water quality problems.
 - (7) Results and discussion of any TIE conducted, together with actions that will be implemented to reduce the discharge of pollutants in storm water, eliminate any discharge of pollutants in non-storm water, and abate the sources causing the toxicity.
- c. Annual monitoring reports must include an analysis and interpretation of the data for each watershed with respect to the management questions listed in section I.B of this Receiving Waters Monitoring and Reporting Program.
- d. Annual monitoring reports must include a discussion describing how each of the goals listed in section I.A of this MRP is addressed by the Copermittees' monitoring program for the monitoring year covered by the report.
- e. Annual monitoring reports must include identification and analysis of any long-term trends in storm water or receiving water quality. Trend analysis must use nonparametric approaches, such as the Mann-Kendall test, including exogenous variables in a multiple regression model, and/or using a seasonal nonparametric trend model, where

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applicable.

- f. Annual monitoring reports must provide an estimation of total pollutant loads (wet weather loads plus dry weather loads) due to MS4 Discharge for each of the hydrologic subareas, including for 303(d) pollutants specified in Table 2 of the Order.
 - g. Annual monitoring reports must, for each monitoring program component listed above, include an assessment of compliance with applicable water quality standards.
 - h. Annual monitoring reports must describe monitoring station locations by latitude and longitude coordinates, frequency of sampling, quality assurance/quality control procedures, and sampling and analysis protocols.
 - i. Annual monitoring reports must use a standard report format and include the following elements:
 - (1) A stand alone comprehensive executive summary addressing all sections of the monitoring report;
 - (2) Comprehensive interpretations and conclusions; and
 - (3) Recommendations for future actions.
 - j. All monitoring reports submitted to the Principal Copermittee or the San Diego Water Board must contain the certified perjury statement described in Attachment B of this Order No. R9-2010-0016.
 - k. Annual monitoring reports must be reviewed prior to submittal to the San Diego Water Board by a committee of the Copermittees (consisting of no less than three different Copermittee members).
 - l. Annual monitoring reports must be submitted in both electronic and paper formats. Electronic formats must be CEDEN or SWAMP-uploadable.¹⁴
3. Monitoring programs and reports must comply with section II.F of Receiving Waters and MS4 Discharge Monitoring and Reporting Program No. R9-2010-0016 and Attachment B of this Order.
 4. Following completion of an annual cycle of monitoring in October, the Copermittees must make the monitoring data and results available to the San Diego Water Board at the San Diego Water Board's request.

¹⁴ For updates to the SWAMP templates and formats, see <http://www.waterboards.ca.gov/swamp>.

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B. Interim Reporting Requirements

For the October 2010 to October 2012 monitoring period, the Principal Copermittee must submit the Receiving Waters Monitoring Annual Report as required under Order No. 2004-0001. The Receiving Waters Monitoring Annual Report must address the monitoring conducted to comply with the requirements of Order No. 2004-0001.

C. Reporting Dates

Table 5. Table of Required MRP Reporting Dates and Frequencies.

Submittal	Section	Completion Date	Frequency
Description of Proposed Monitoring Program	III.A.1	June 1, 2012	One Time
Receiving Waters and MS4 Discharge Monitoring Annual Reports, Including Proposed Updates to the Monitoring Program	III.A.2	Starting October 1, 2013	Annual
Copermittees submit Interim Monitoring Program Annual Report	III.B	As required under Order No. 2004-001	One Time
Draft Wet Weather MS4 Discharge Monitoring Program	II.B	June 01, 2012	One Time
Draft High Priority Inland Aquatic Habitat Monitoring	II.D	April 01, 2012	One Time
Draft Sediment Toxicity Special Study	II.E.2	April 01, 2012	One Time
Draft Trash and Litter Impairment Special Study	II.E.3	September 01, 2012	One Time
Draft Agricultural, Federal and Tribal Input Study	II.E.4	September 01, 2012	One Time
Draft MS4 and Receiving Water Maintenance Study	II.E.5	April 01, 2012	One Time
Draft Intermittent and Ephemeral Stream Perennial Conversion Study	II.E.6	April 01, 2013	One Time

Attachment F

SOURCE DATA

I. STORM WATER ACTION LEVELS DATABASE.....2

II. NUMERIC ACTION LEVELS EVALUATION DATA¹9

¹ Represented data from monitoring conducted by the Copermittees and provided in the 2008-09 Annual Monitoring Report.

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N02+NO3 (mg/l)	Phosphorous Total (mg/l)	Cadmium Total (ug/l)	Copper Total (ug/l)	Lead Total (ug/l)	Zinc Total (ug/l)	Turbidity (NTU)
4.70	7.90	9.80	800.00	660.00	22500.00	10
4.20	7.19	6.00	340.00	620.00	18000.00	15
3.90	4.96	6.00	320.00	540.00	11000.00	15
3.90	4.50	6.00	270.00	520.00	9970.00	16
3.60	4.40	6.00	244.00	460.00	9100.00	22
3.60	4.24	6.00	230.00	450.00	8800.00	23
3.60	2.59	5.30	220.00	450.00	6500.00	23
3.50	2.59	5.00	220.00	440.00	5500.00	24
3.30	2.50	4.10	210.00	430.00	5000.00	24
3.30	2.50	4.00	210.00	400.00	4900.00	30
3.10	2.50	4.00	209.00	380.00	4600.00	31
3.00	2.27	4.00	209.00	360.00	4300.00	33
2.96	2.00	4.00	200.00	350.00	3800.00	36
2.90	2.00	4.00	200.00	330.00	3800.00	36
2.70	2.00	4.00	200.00	320.00	3400.00	39
2.70	2.00	3.90	200.00	320.00	3390.00	40
2.60	1.90	3.80	200.00	320.00	3100.00	45
2.60	1.90	3.40	180.00	310.00	2500.00	50
2.60	1.80	3.40	180.00	310.00	2200.00	50
2.50	1.80	3.20	166.00	310.00	2100.00	60
2.50	1.70	3.10	163.00	310.00	1829.00	61
2.32	1.70	3.00	160.00	300.00	1700.00	62
2.30	1.70	3.00	150.00	290.00	1500.00	65
2.20	1.60	3.00	140.00	280.00	1400.00	65
2.20	1.60	3.00	140.00	270.00	1300.00	66
2.10	1.60	3.00	140.00	270.00	1300.00	69
2.10	1.53	3.00	140.00	270.00	1285.00	70
2.10	1.50	3.00	140.00	270.00	1200.00	72
2.10	1.50	3.00	130.00	260.00	1100.00	80
2.00	1.47	3.00	130.00	260.00	1054.00	84
2.00	1.46	3.00	128.00	250.00	1000.00	97
2.00	1.40	3.00	120.00	250.00	980.00	111
2.00	1.40	3.00	120.00	250.00	960.00	140
1.90	1.40	3.00	120.00	245.00	850.00	151
1.90	1.30	2.90	120.00	230.00	850.00	157
1.90	1.30	2.80	120.00	230.00	850.00	590
1.90	1.30	2.70	111.00	225.00	850.00	
1.90	1.30	2.60	111.00	220.00	840.00	
1.80	1.30	2.50	110.00	220.00	780.00	
1.80	1.30	2.40	110.00	210.00	768.00	
1.70	1.24	2.40	110.00	210.00	760.00	

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1.70	1.20	2.30	110.00	200.00	750.00	
1.70	1.20	2.20	110.00	200.00	740.00	
1.70	1.20	2.10	110.00	190.00	740.00	
1.70	1.20	2.00	100.00	190.00	730.00	
1.70	1.10	2.00	100.00	190.00	720.00	
1.70	1.10	2.00	100.00	190.00	710.00	
1.60	1.10	2.00	100.00	170.00	710.00	
1.60	1.10	2.00	100.00	170.00	700.00	
1.60	1.06	2.00	100.00	170.00	700.00	
1.60	1.00	2.00	99.00	160.00	690.00	
1.60	0.96	2.00	94.00	160.00	690.00	
1.60	0.96	2.00	91.00	150.00	680.00	
1.60	0.94	2.00	91.00	150.00	680.00	
1.53	0.94	2.00	90.00	150.00	670.00	
1.50	0.92	2.00	90.00	150.00	660.00	
1.50	0.91	2.00	89.00	150.00	660.00	
1.50	0.85	2.00	87.00	140.00	660.00	
1.50	0.85	2.00	87.00	140.00	650.00	
1.50	0.85	2.00	84.00	140.00	630.00	
1.50	0.83	2.00	83.00	130.00	610.00	
1.40	0.83	2.00	82.00	130.00	610.00	
1.40	0.83	2.00	81.00	130.00	597.00	
1.40	0.81	2.00	81.00	130.00	590.00	
1.40	0.81	2.00	77.00	130.00	590.00	
1.40	0.81	2.00	77.00	123.00	576.00	
1.40	0.80	2.00	76.00	120.00	570.00	
1.40	0.80	2.00	74.00	120.00	570.00	
1.32	0.78	2.00	72.00	120.00	560.00	
1.30	0.78	1.90	72.00	120.00	560.00	
1.30	0.77	1.90	72.00	120.00	540.00	
1.30	0.77	1.90	72.00	115.00	540.00	
1.30	0.76	1.80	72.00	110.00	520.00	
1.30	0.76	1.80	71.00	110.00	520.00	
1.30	0.75	1.80	70.00	110.00	520.00	
1.30	0.75	1.70	70.00	110.00	510.00	
1.29	0.75	1.60	67.00	102.00	500.00	
1.20	0.74	1.60	66.00	100.00	500.00	
1.20	0.73	1.60	66.00	100.00	490.00	
1.20	0.72	1.60	66.00	100.00	480.00	
1.20	0.72	1.60	65.00	100.00	475.00	
1.20	0.72	1.60	65.00	100.00	470.00	
1.20	0.71	1.50	63.00	99.00	470.00	
1.20	0.71	1.50	63.00	97.00	462.00	
1.20	0.69	1.40	62.00	97.00	460.00	
1.20	0.68	1.30	62.00	97.00	460.00	
1.20	0.68	1.30	60.00	95.00	450.00	
1.20	0.68	1.20	60.00	91.00	440.00	

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1.10	0.68	1.20	59.00	90.00	440.00	
1.10	0.68	1.20	56.59	90.00	440.00	
1.10	0.67	1.20	55.00	87.00	430.00	
1.10	0.66	1.10	55.00	86.00	430.00	
1.10	0.66	1.10	54.00	86.00	430.00	
1.10	0.65	1.10	54.00	84.00	420.00	
1.10	0.65	1.10	54.00	82.00	420.00	
1.10	0.65	1.10	53.00	82.00	410.00	
1.10	0.65	1.00	53.00	81.00	409.00	
1.00	0.63	1.00	52.00	78.00	400.00	
1.00	0.62	1.00	51.00	78.00	400.00	
1.00	0.61	1.00	50.00	78.00	400.00	
1.00	0.60	1.00	50.00	77.00	390.00	
1.00	0.60	1.00	50.00	76.00	390.00	
1.00	0.59	1.00	50.00	76.00	390.00	
0.99	0.57	1.00	50.00	69.00	390.00	
0.99	0.57	1.00	50.00	69.00	390.00	
0.98	0.56	1.00	50.00	67.00	370.00	
0.97	0.56	1.00	50.00	66.00	370.00	
0.96	0.55	1.00	49.00	66.00	370.00	
0.96	0.55	1.00	49.00	66.00	360.00	
0.95	0.55	1.00	49.00	65.00	360.00	
0.95	0.53	1.00	48.00	64.00	360.00	
0.93	0.53	1.00	48.00	61.00	360.00	
0.93	0.53	1.00	47.00	57.00	350.00	
0.93	0.52	1.00	46.08	57.00	350.00	
0.93	0.52	1.00	46.00	56.00	350.00	
0.92	0.52	1.00	46.00	56.00	340.00	
0.90	0.52	1.00	44.25	53.00	340.00	
0.88	0.51	1.00	44.00	53.00	340.00	
0.87	0.51	1.00	44.00	52.60	340.00	
0.86	0.50	1.00	44.00	52.00	340.00	
0.85	0.49	1.00	44.00	51.00	340.00	
0.84	0.49	1.00	43.00	51.00	334.00	
0.83	0.48	1.00	43.00	50.00	330.00	
0.81	0.48	1.00	43.00	50.00	330.00	
0.81	0.48	1.00	42.00	50.00	330.00	
0.80	0.47	1.00	42.00	50.00	330.00	
0.80	0.47	1.00	42.00	50.00	330.00	
0.78	0.47	1.00	41.00	50.00	330.00	
0.78	0.46	1.00	40.00	50.00	330.00	
0.77	0.46	1.00	40.00	50.00	320.00	
0.77	0.46	1.00	40.00	50.00	320.00	
0.77	0.45	1.00	40.00	50.00	320.00	
0.74	0.45	1.00	40.00	50.00	320.00	
0.73	0.44	1.00	39.00	49.00	310.00	
0.72	0.44	1.00	39.00	47.00	310.00	

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0.69	0.44	1.00	39.00	46.00	310.00	
0.69	0.44	1.00	39.00	46.00	308.00	
0.69	0.44	1.00	39.00	44.00	300.00	
0.67	0.44	1.00	39.00	44.00	300.00	
0.67	0.44	1.00	37.00	43.00	300.00	
0.66	0.43	1.00	37.00	42.00	300.00	
0.66	0.42	1.00	37.00	41.00	290.00	
0.65	0.42	1.00	37.00	41.00	285.00	
0.63	0.41	1.00	37.00	41.00	280.00	
0.62	0.41	1.00	36.00	41.00	280.00	
0.62	0.41	1.00	36.00	41.00	280.00	
0.62	0.40	1.00	36.00	40.10	280.00	
0.60	0.40	1.00	36.00	40.00	280.00	
0.59	0.40	1.00	35.00	39.30	280.00	
0.59	0.40	1.00	35.00	39.00	280.00	
0.58	0.40	1.00	34.00	39.00	280.00	
0.57	0.40	1.00	34.00	39.00	280.00	
0.57	0.40	1.00	33.40	38.00	270.00	
0.55	0.40	1.00	33.00	38.00	270.00	
0.52	0.40	1.00	33.00	38.00	270.00	
0.50	0.40	1.00	33.00	37.00	270.00	
0.50	0.39	1.00	33.00	36.00	270.00	
0.46	0.39	1.00	33.00	36.00	270.00	
0.42	0.39	1.00	32.26	36.00	260.00	
0.42	0.38	1.00	32.01	36.00	260.00	
0.35	0.38	1.00	32.00	35.00	260.00	
0.10	0.38	1.00	32.00	34.00	260.00	
0.06	0.37	1.00	32.00	34.00	260.00	
	0.36	1.00	32.00	33.00	250.00	
	0.36	1.00	32.00	33.00	250.00	
	0.36	1.00	32.00	33.00	250.00	
	0.36	1.00	31.00	33.00	250.00	
	0.35	1.00	31.00	32.00	247.00	
	0.35	1.00	31.00	32.00	242.13	
	0.35	1.00	31.00	31.94	240.00	
	0.35	1.00	30.00	30.00	240.00	
	0.34	1.00	30.00	30.00	240.00	
	0.34	1.00	30.00	30.00	240.00	
	0.34	1.00	30.00	30.00	240.00	
	0.34	1.00	30.00	30.00	230.00	
	0.34	1.00	29.00	30.00	230.00	
	0.34	1.00	29.00	30.00	220.00	
	0.33	1.00	28.00	29.00	220.00	
	0.33	1.00	28.00	29.00	220.00	
	0.33	0.98	28.00	29.00	210.00	
	0.33	0.94	28.00	29.00	210.00	
	0.33	0.94	27.19	28.00	210.00	

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	0.33	0.92	27.00	28.00	210.00	
	0.32	0.90	27.00	28.00	210.00	
	0.32	0.90	27.00	27.00	210.00	
	0.32	0.86	26.00	27.00	210.00	
	0.32	0.80	26.00	26.31	205.00	
	0.32	0.80	26.00	26.00	202.79	
	0.31	0.71	25.00	26.00	202.00	
	0.31	0.70	25.00	25.00	200.00	
	0.30	0.70	25.00	25.00	200.00	
	0.30	0.60	24.00	25.00	200.00	
	0.30	0.60	24.00	24.60	200.00	
	0.30	0.59	23.00	24.00	200.00	
	0.30	0.59	23.00	24.00	200.00	
	0.30	0.52	23.00	24.00	200.00	
	0.30	0.50	23.00	24.00	194.49	
	0.29	0.50	23.00	23.00	190.00	
	0.29	0.50	22.00	23.00	190.00	
	0.29	0.50	22.00	23.00	190.00	
	0.29	0.50	21.00	23.00	190.00	
	0.29	0.50	21.00	23.00	184.13	
	0.29	0.50	21.00	23.00	180.00	
	0.28	0.50	21.00	22.20	180.00	
	0.28	0.50	20.36	22.00	180.00	
	0.28	0.50	20.00	22.00	180.00	
	0.27	0.50	20.00	22.00	180.00	
	0.27	0.50	20.00	22.00	180.00	
	0.27	0.50	20.00	21.20	180.00	
	0.26	0.50	20.00	21.10	170.00	
	0.26	0.40	19.00	21.00	170.00	
	0.26	0.40	19.00	20.00	170.00	
	0.26	0.40	18.00	19.10	170.00	
	0.25	0.30	18.00	19.00	160.00	
	0.25	0.30	18.00	19.00	160.00	
	0.25	0.30	18.00	19.00	160.00	
	0.25	0.30	18.00	19.00	160.00	
	0.25	0.30	17.00	18.50	160.00	
	0.25	0.30	17.00	18.00	160.00	
	0.24	0.20	17.00	18.00	160.00	
	0.24	0.20	17.00	18.00	160.00	
	0.24	0.20	17.00	18.00	160.00	
	0.23	0.04	17.00	17.00	160.00	
	0.23		17.00	17.00	150.00	
	0.23		17.00	17.00	150.00	
	0.23		17.00	17.00	150.00	
	0.22		16.00	17.00	150.00	
	0.22		16.00	17.00	150.00	
	0.22		16.00	17.00	146.00	

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	0.22		16.00	17.00	145.00	
	0.22		16.00	17.00	140.00	
	0.22		15.00	16.90	140.00	
	0.22		15.00	16.00	140.00	
	0.21		15.00	15.00	140.00	
	0.21		15.00	15.00	140.00	
	0.21		15.00	15.00	140.00	
	0.21		14.50	15.00	140.00	
	0.21		14.00	15.00	140.00	
	0.21		14.00	14.00	140.00	
	0.20		14.00	14.00	140.00	
	0.20		14.00	14.00	136.55	
	0.20		14.00	13.00	135.60	
	0.20		14.00	13.00	130.00	
	0.20		13.00	13.00	130.00	
	0.20		13.00	13.00	130.00	
	0.20		13.00	13.00	130.00	
	0.20		13.00	12.00	130.00	
	0.20		13.00	12.00	130.00	
	0.19		13.00	12.00	130.00	
	0.19		12.00	12.00	127.00	
	0.19		12.00	12.00	124.00	
	0.19		12.00	12.00	122.05	
	0.19		12.00	11.00	120.00	
	0.19		11.00	11.00	120.00	
	0.19		11.00	11.00	120.00	
	0.18		10.00	10.00	120.00	
	0.18		10.00	10.00	112.11	
	0.18		10.00	10.00	110.00	
	0.18		10.00	10.00	110.00	
	0.18		9.60	10.00	110.00	
	0.18		9.60	10.00	110.00	
	0.17		9.10	10.00	110.00	
	0.17		9.10	10.00	110.00	
	0.17		9.00	10.00	110.00	
	0.17		8.30	9.60	110.00	
	0.17		8.20	9.40	110.00	
	0.16		8.00	9.10	108.00	
	0.15		8.00	9.00	100.00	
	0.15		7.70	9.00	100.00	
	0.15		7.70	9.00	100.00	
	0.15		7.00	9.00	100.00	
	0.15		7.00	8.00	100.00	
	0.15		6.80	8.00	100.00	
	0.14		6.80	8.00	99.00	
	0.14		6.80	8.00	98.00	
	0.14		6.50	8.00	97.00	

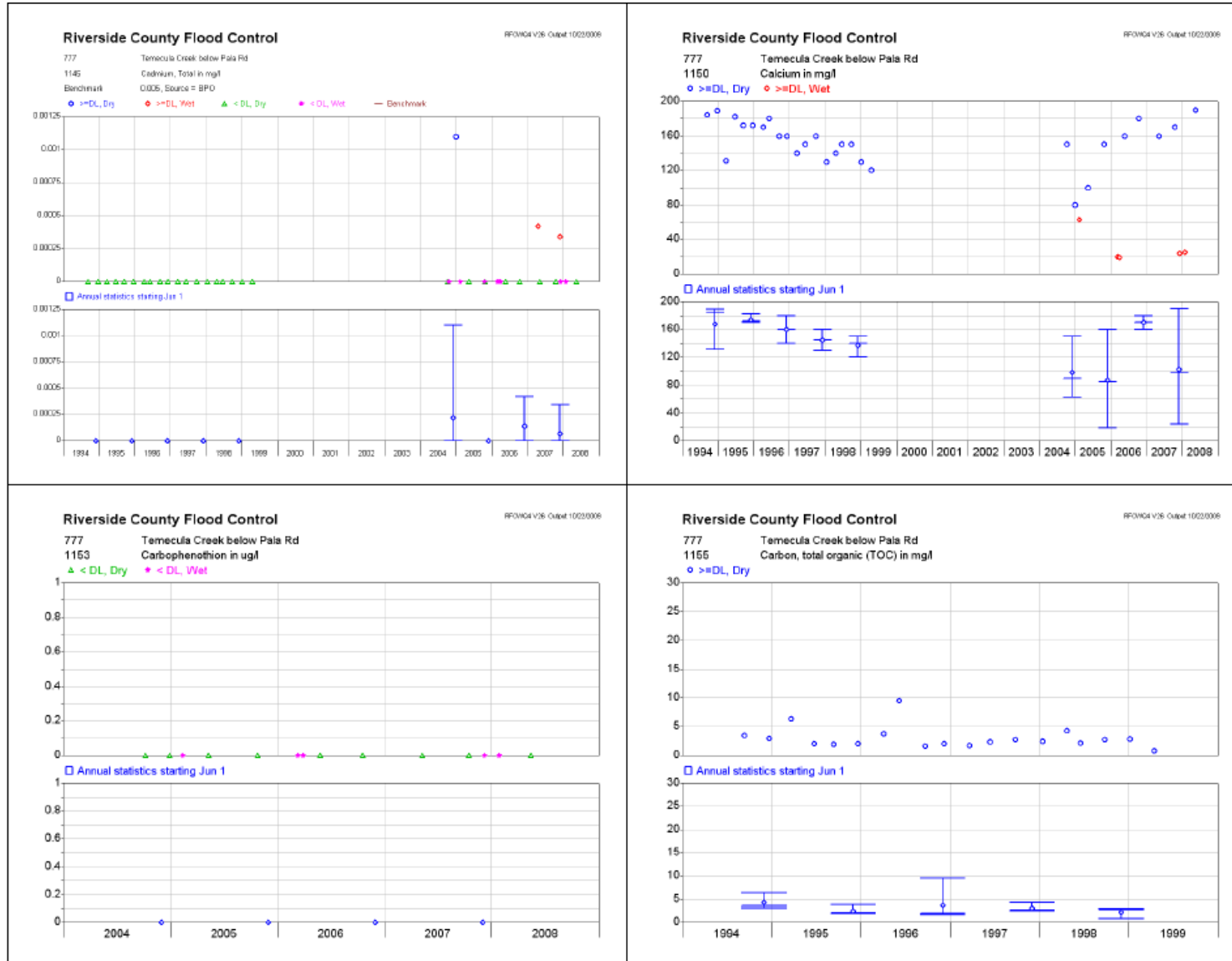
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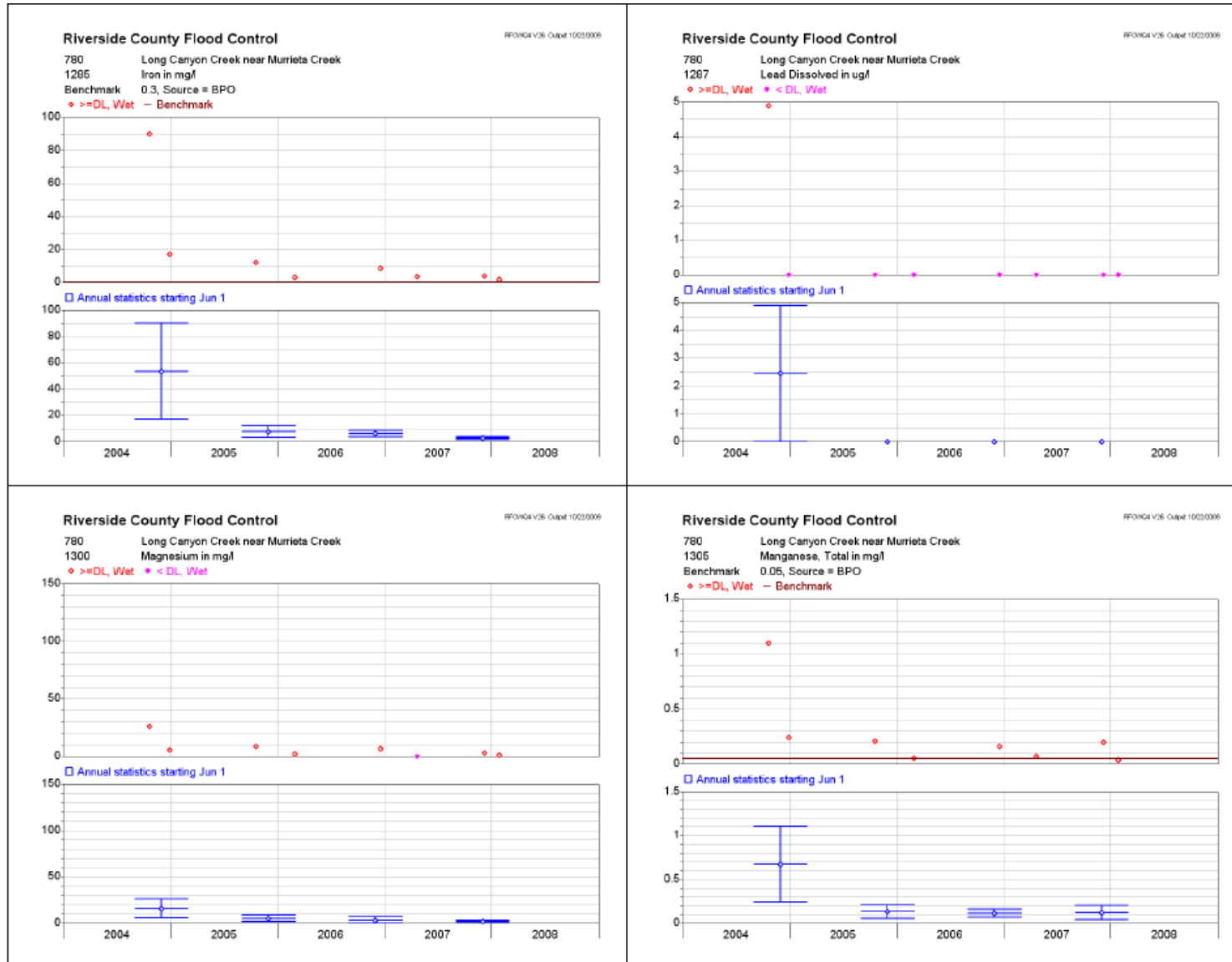
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	0.13		5.60	7.00	90.00	
	0.13		5.40	7.00	90.00	
	0.13		5.20	6.00	86.00	
	0.13		5.00	6.00	83.00	
	0.13		4.90	6.00	81.00	
	0.12		4.50	5.90	81.00	
	0.12		4.10	5.80	80.00	
	0.12		4.10	5.40	80.00	
	0.11		3.90	5.00	80.00	
	0.11		3.40	5.00	80.00	
	0.11		2.60	5.00	80.00	
	0.11		2.60	5.00	79.00	
	0.10		2.60	5.00	73.00	
	0.10		2.30	5.00	72.00	
	0.10		2.00	4.80	70.00	
	0.10		2.00	4.80	70.00	
	0.09		1.70	4.70	70.00	
	0.08		1.50	4.60	70.00	
	0.06		1.50	4.00	64.00	
	0.03		1.50	4.00	63.00	
			1.40	3.80	61.00	
			1.40	3.00	60.00	
				3.00	56.00	
				2.30	44.00	
				2.00	40.00	
				1.60	37.00	
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					5.00	

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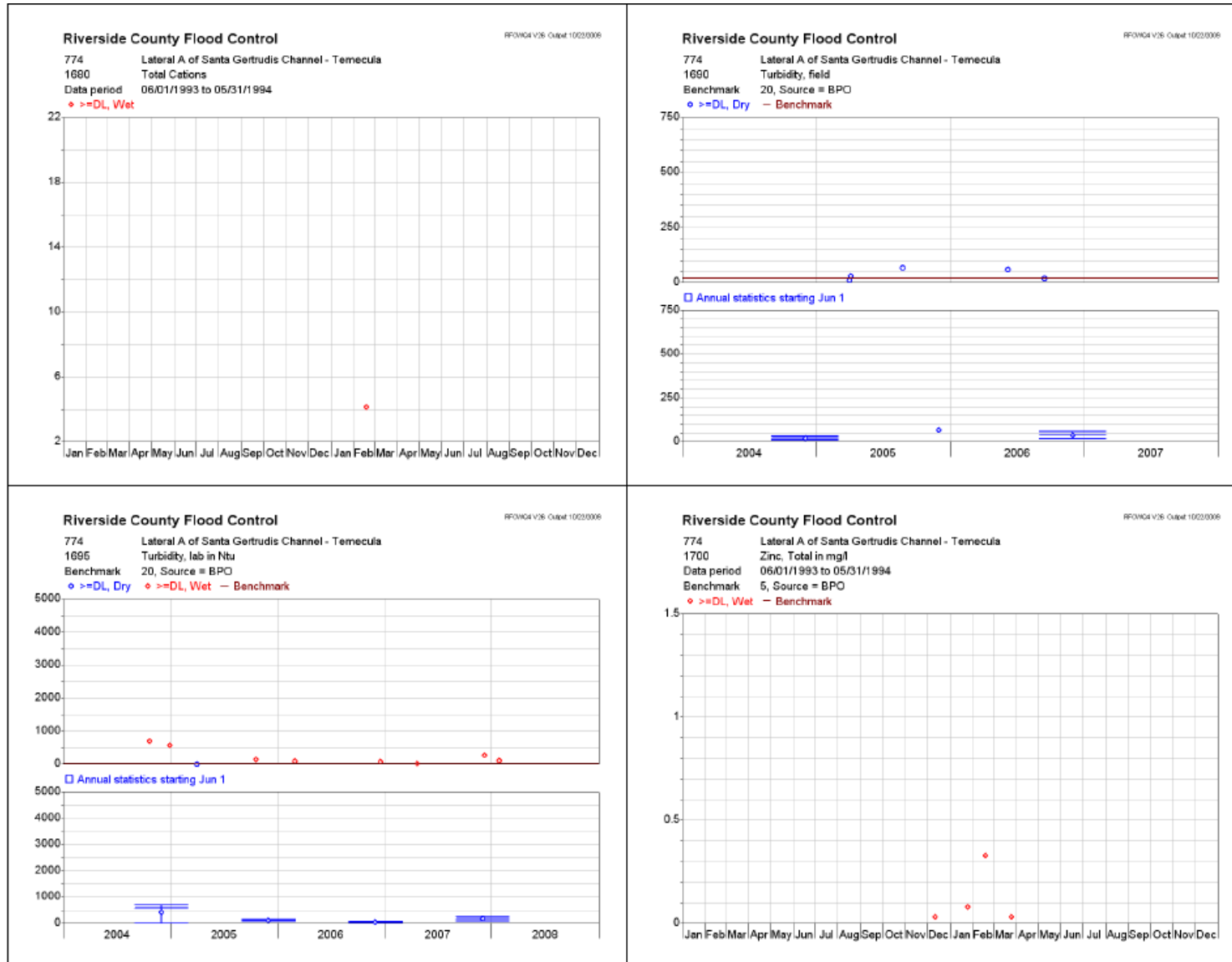
II. NUMERIC ACTION LEVELS EVALUATION DATA



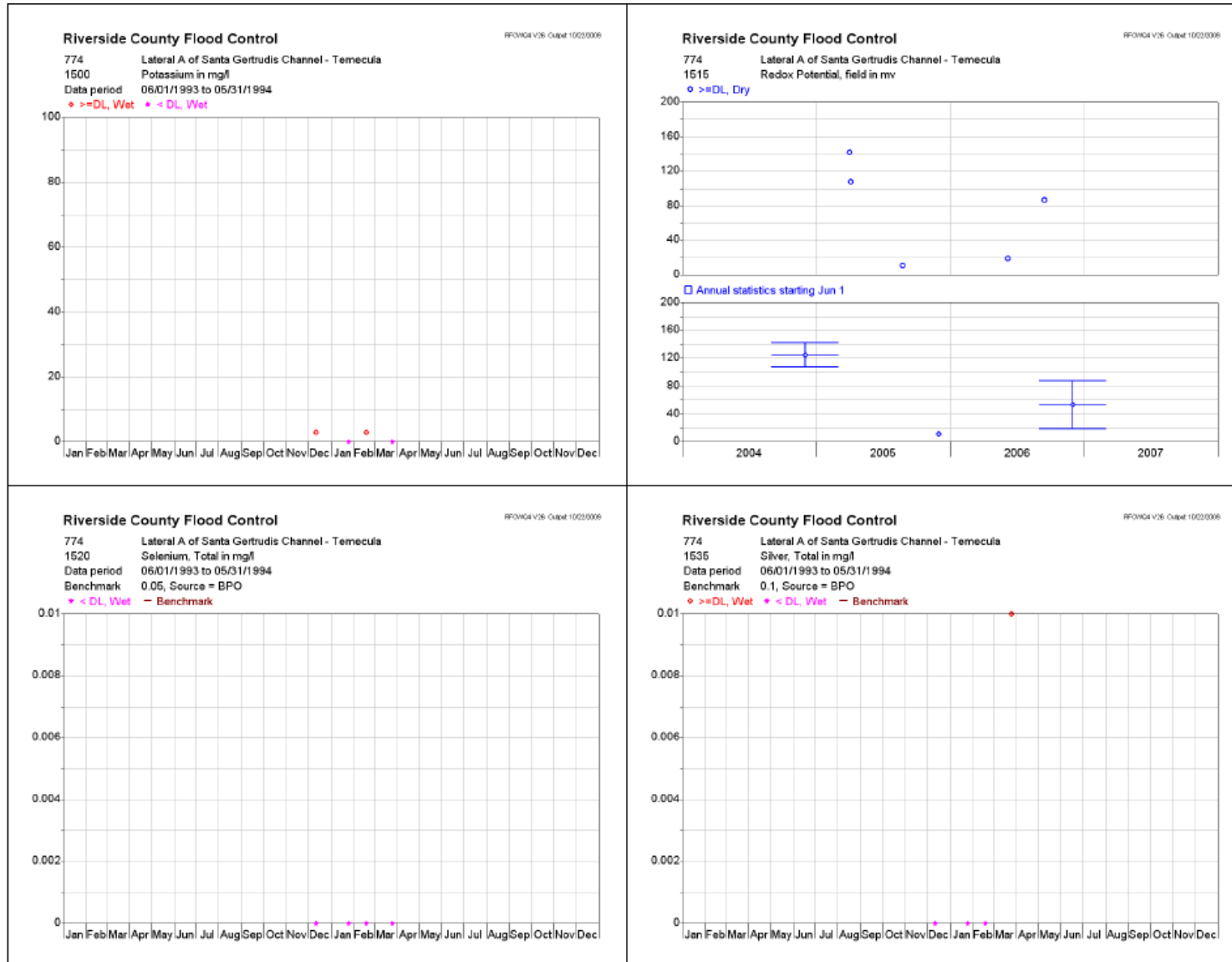
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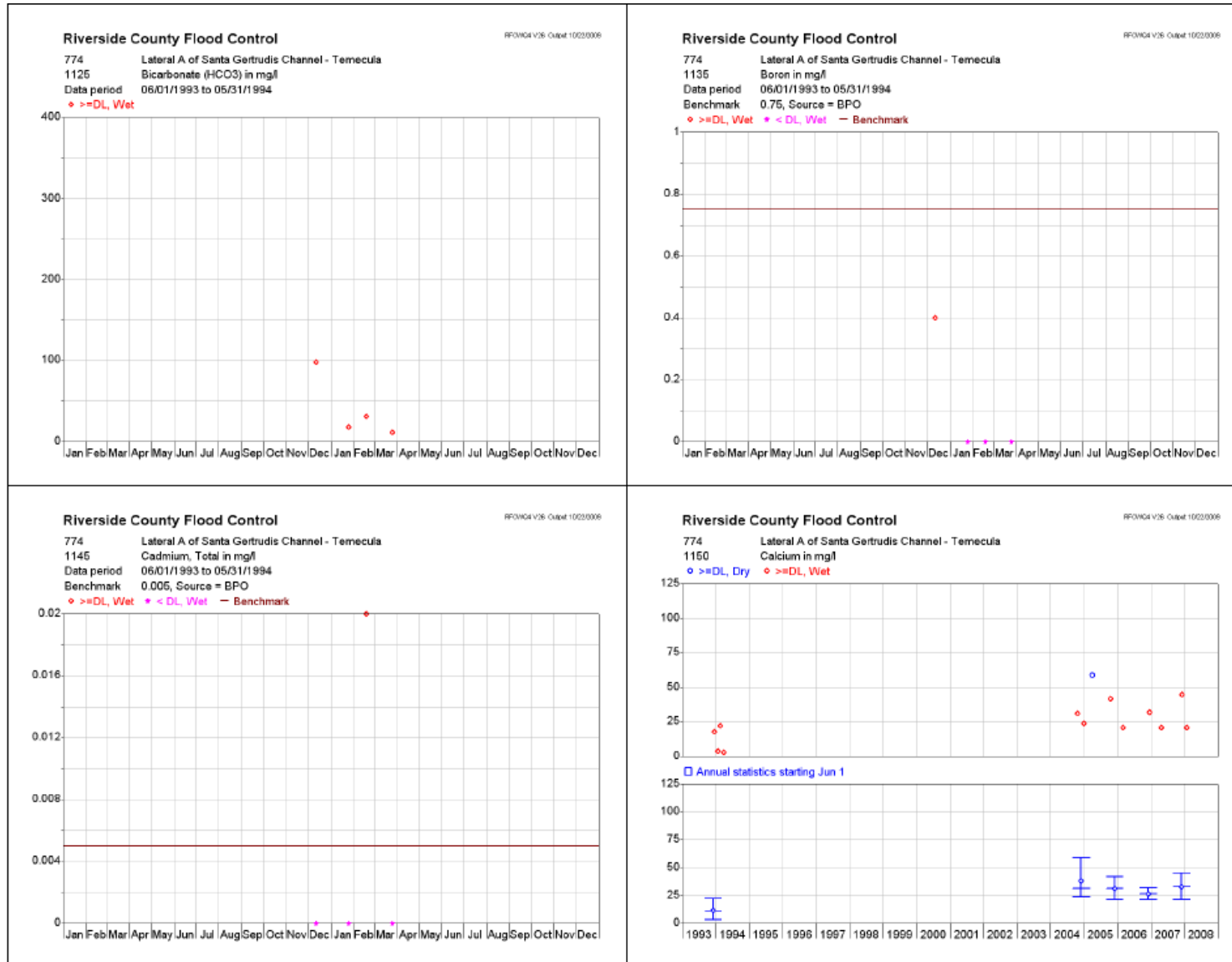
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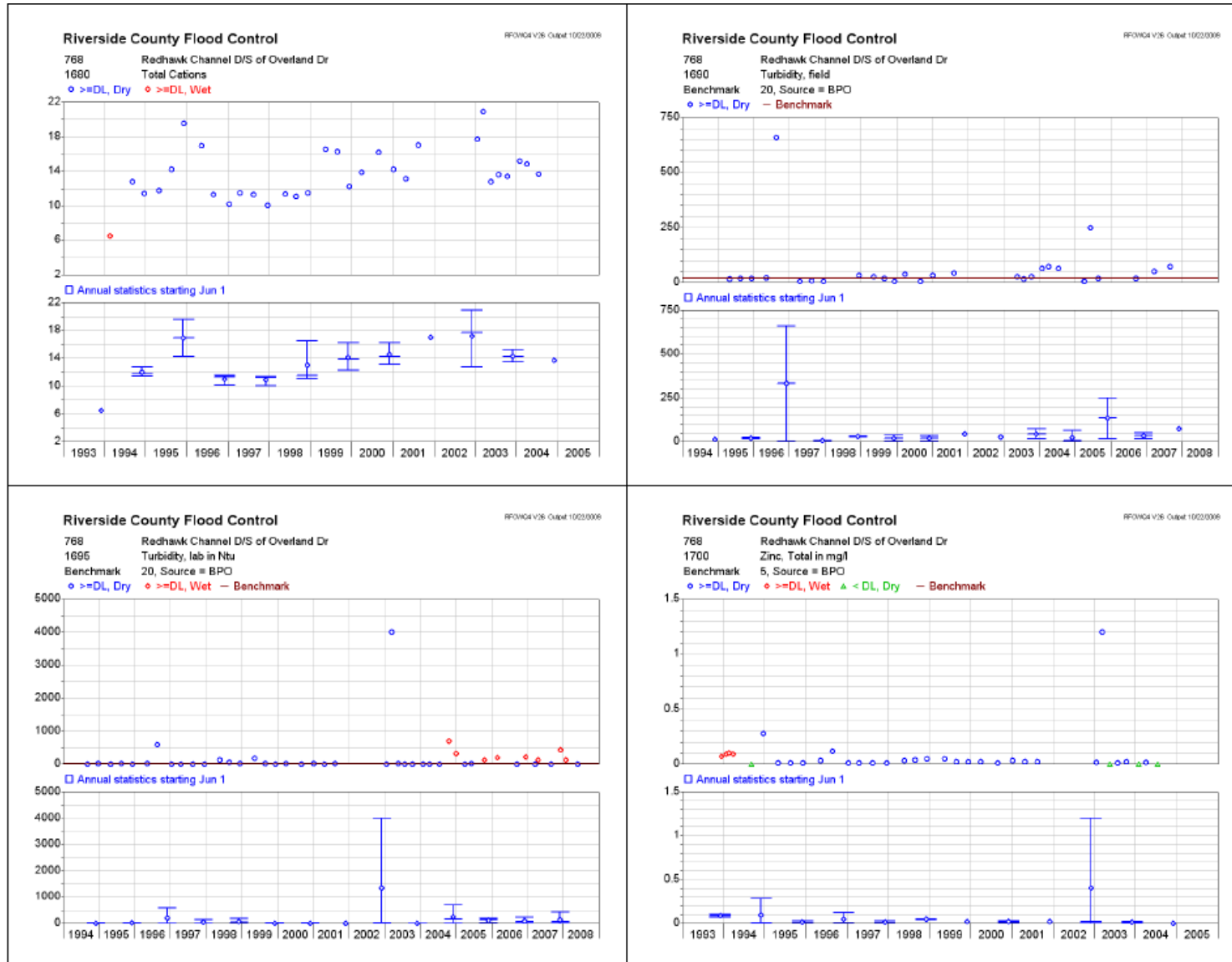
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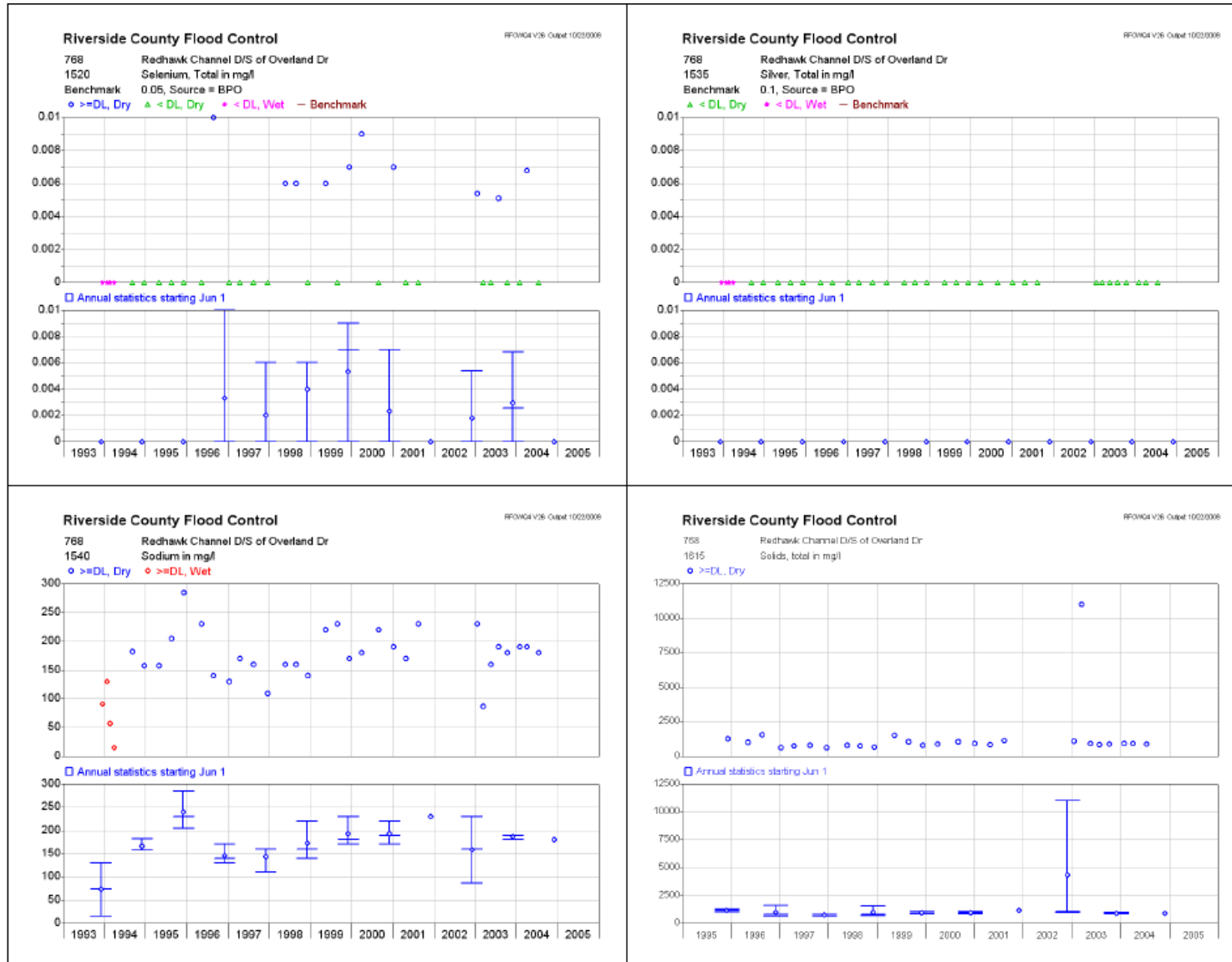
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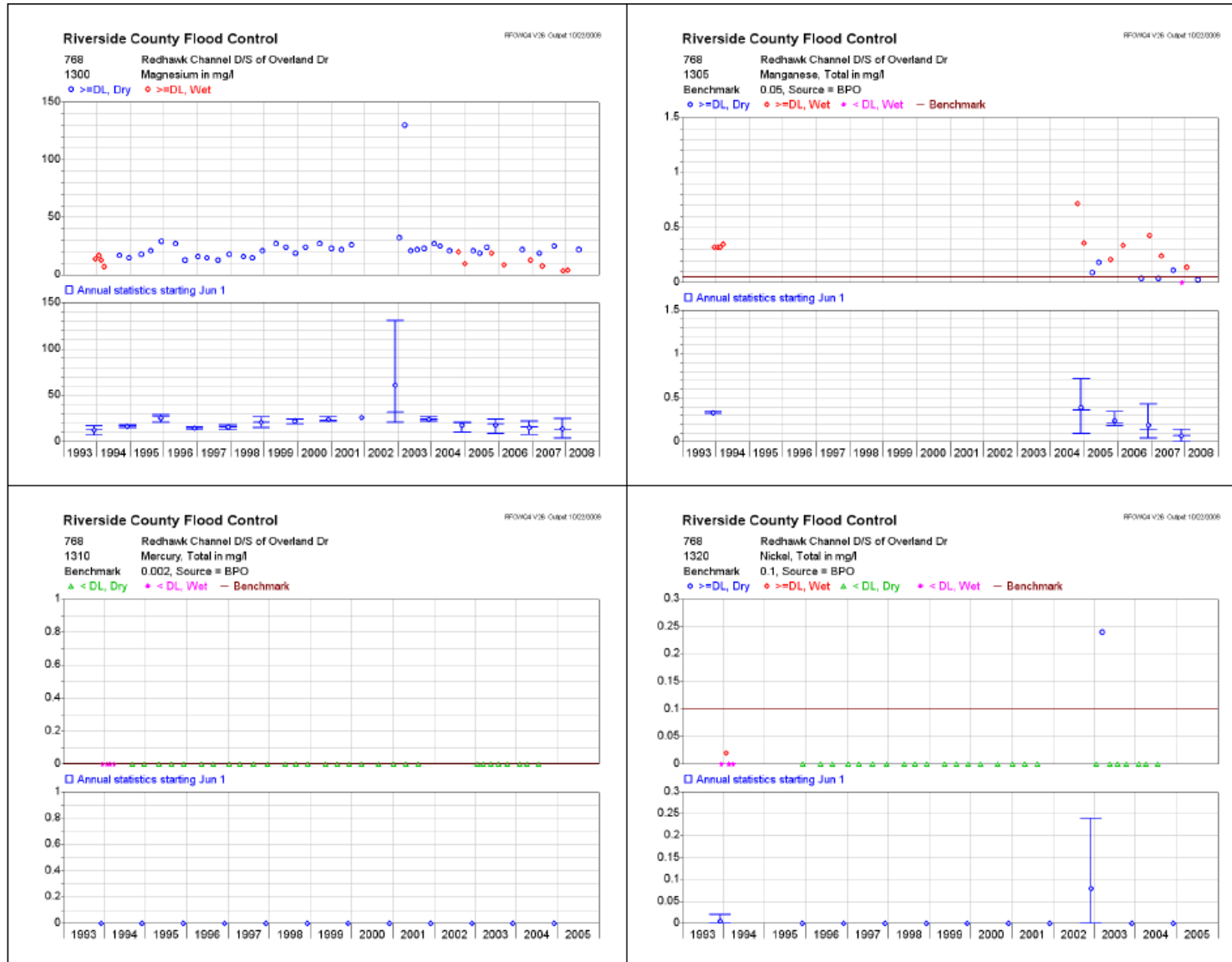
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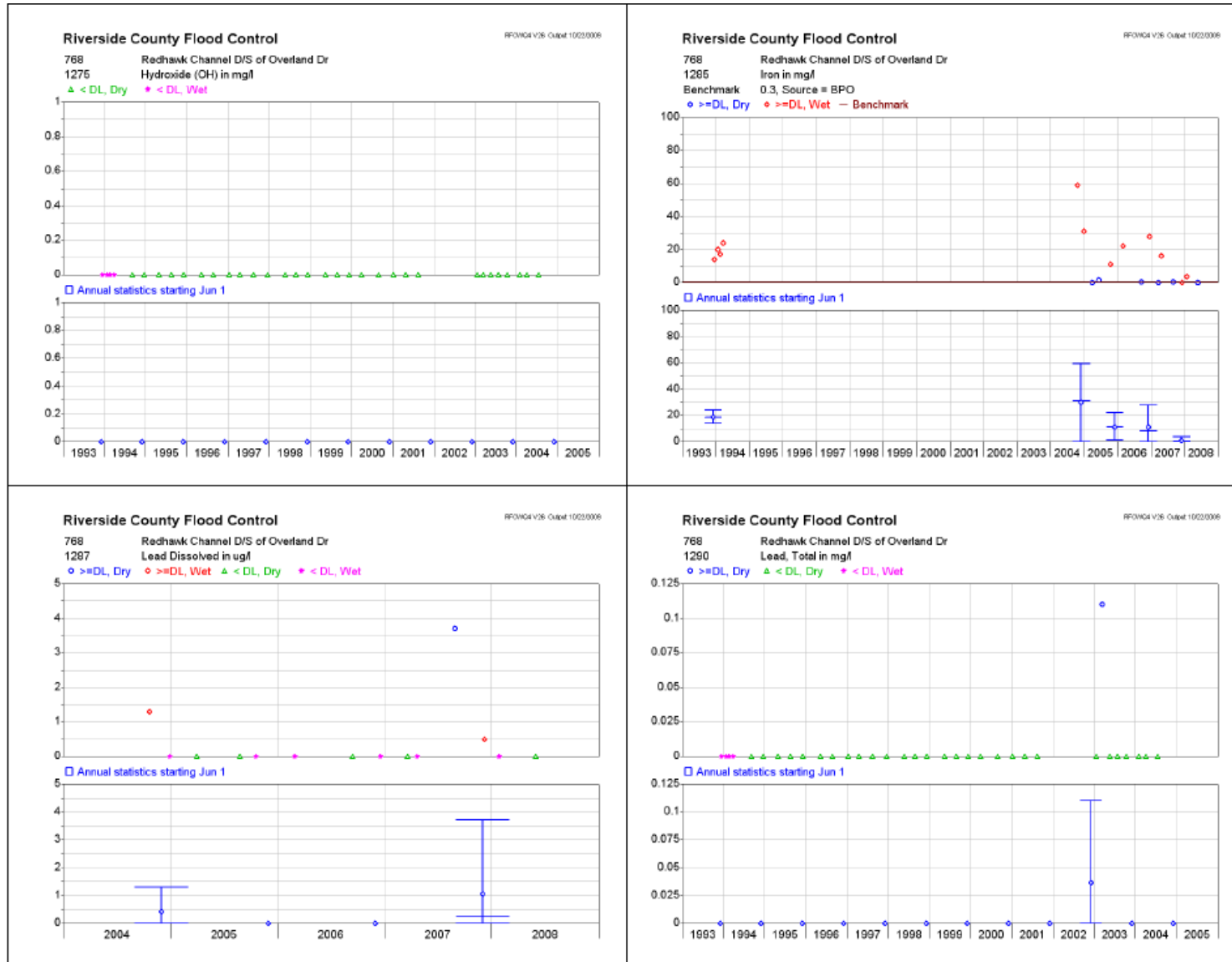
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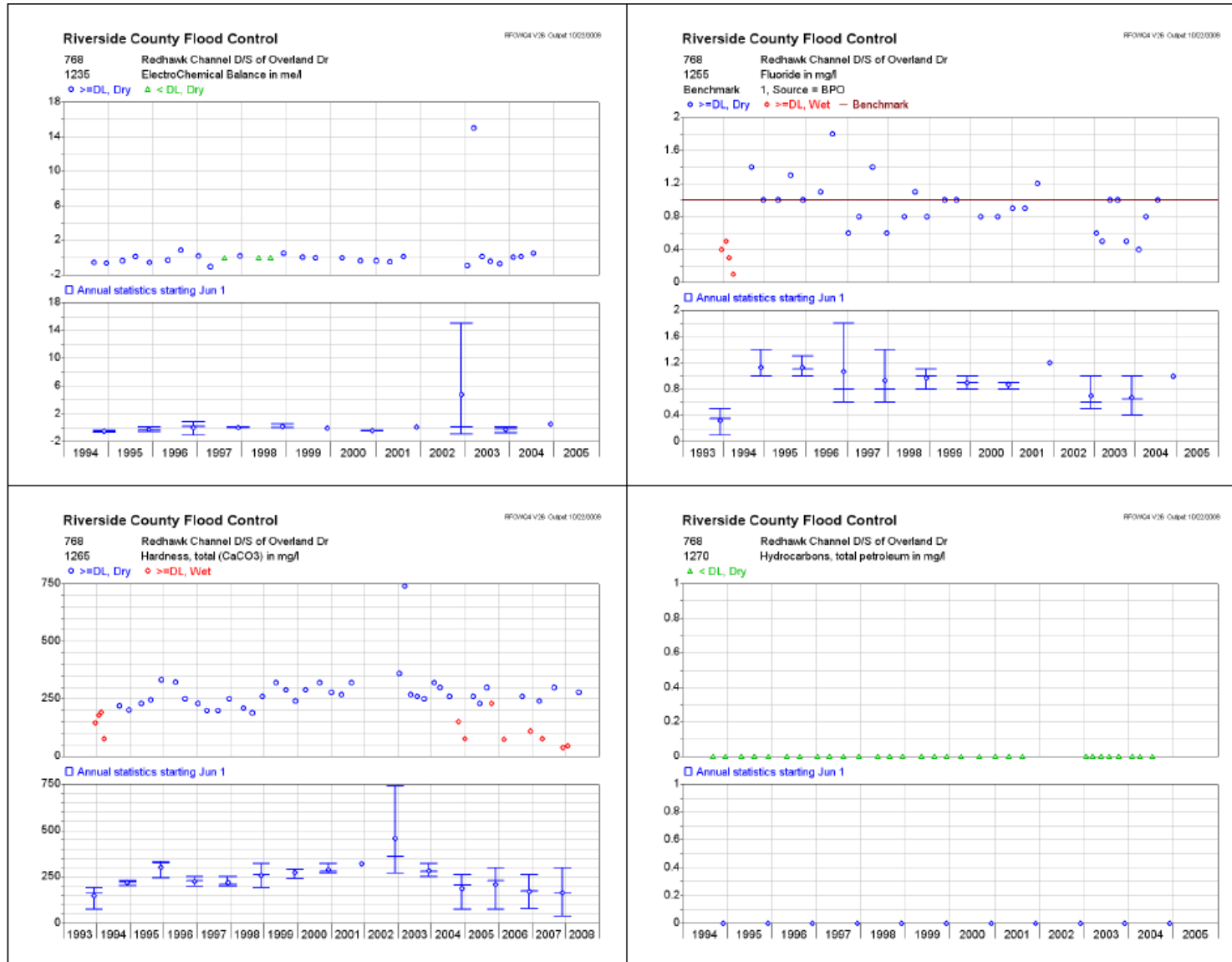
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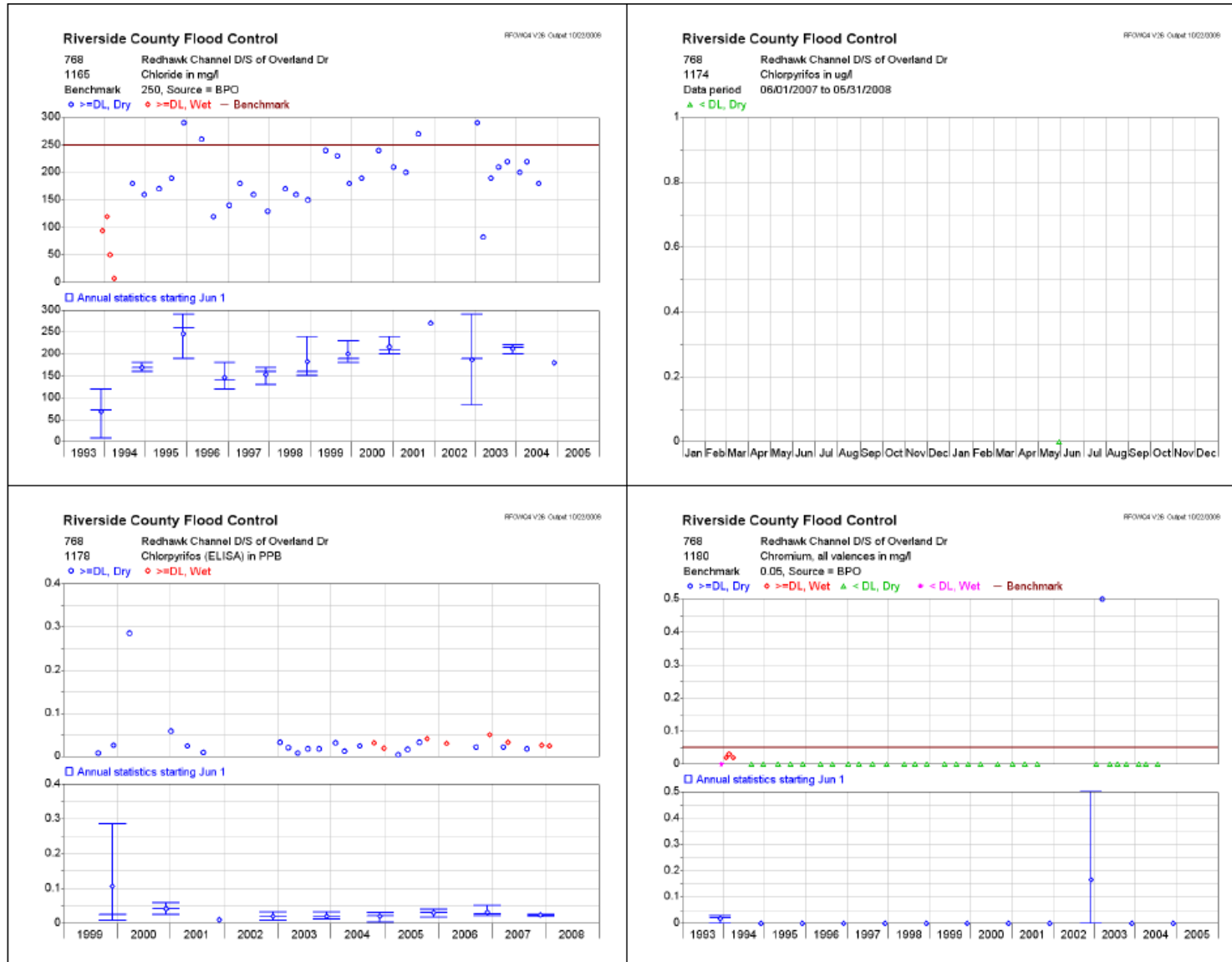


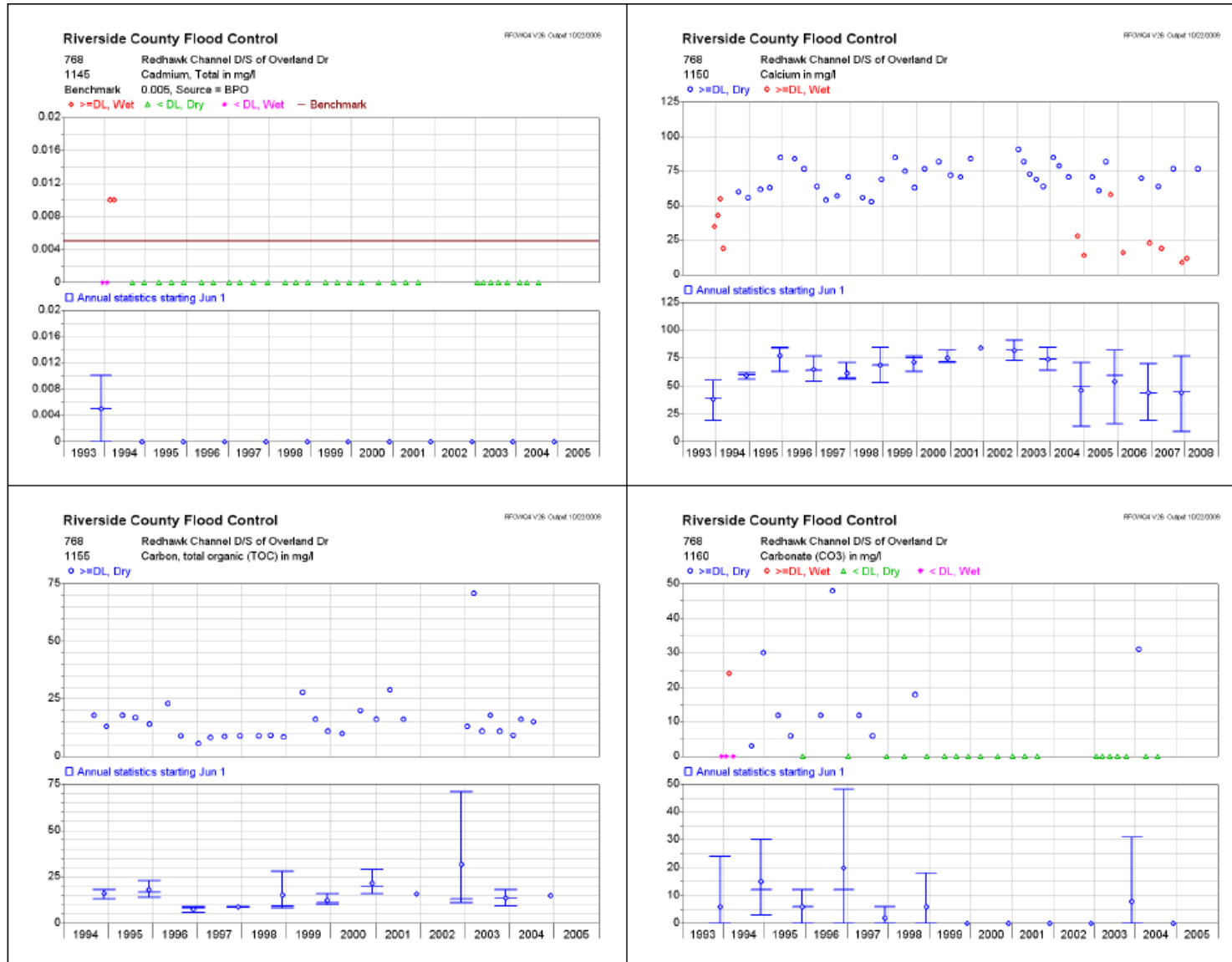
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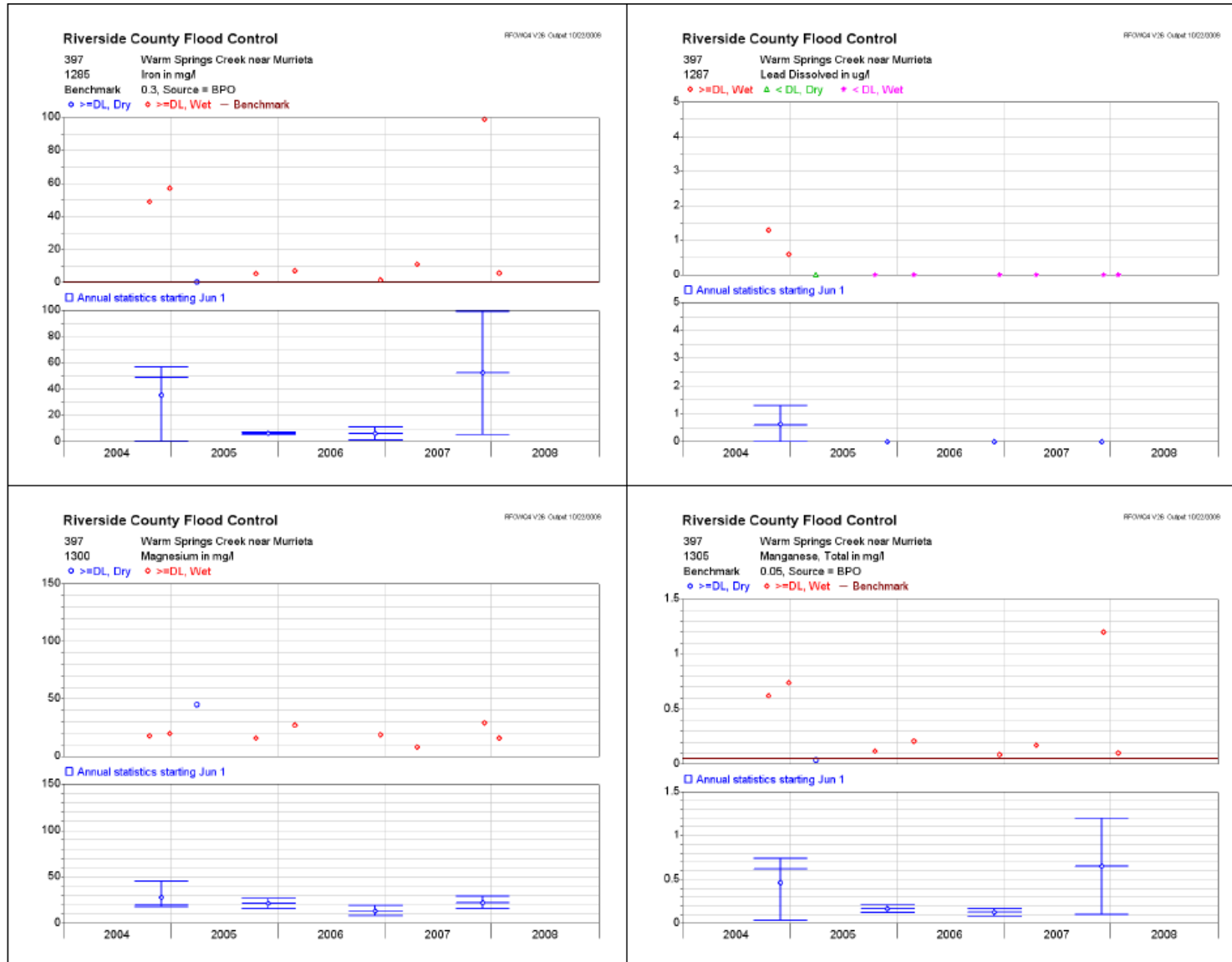
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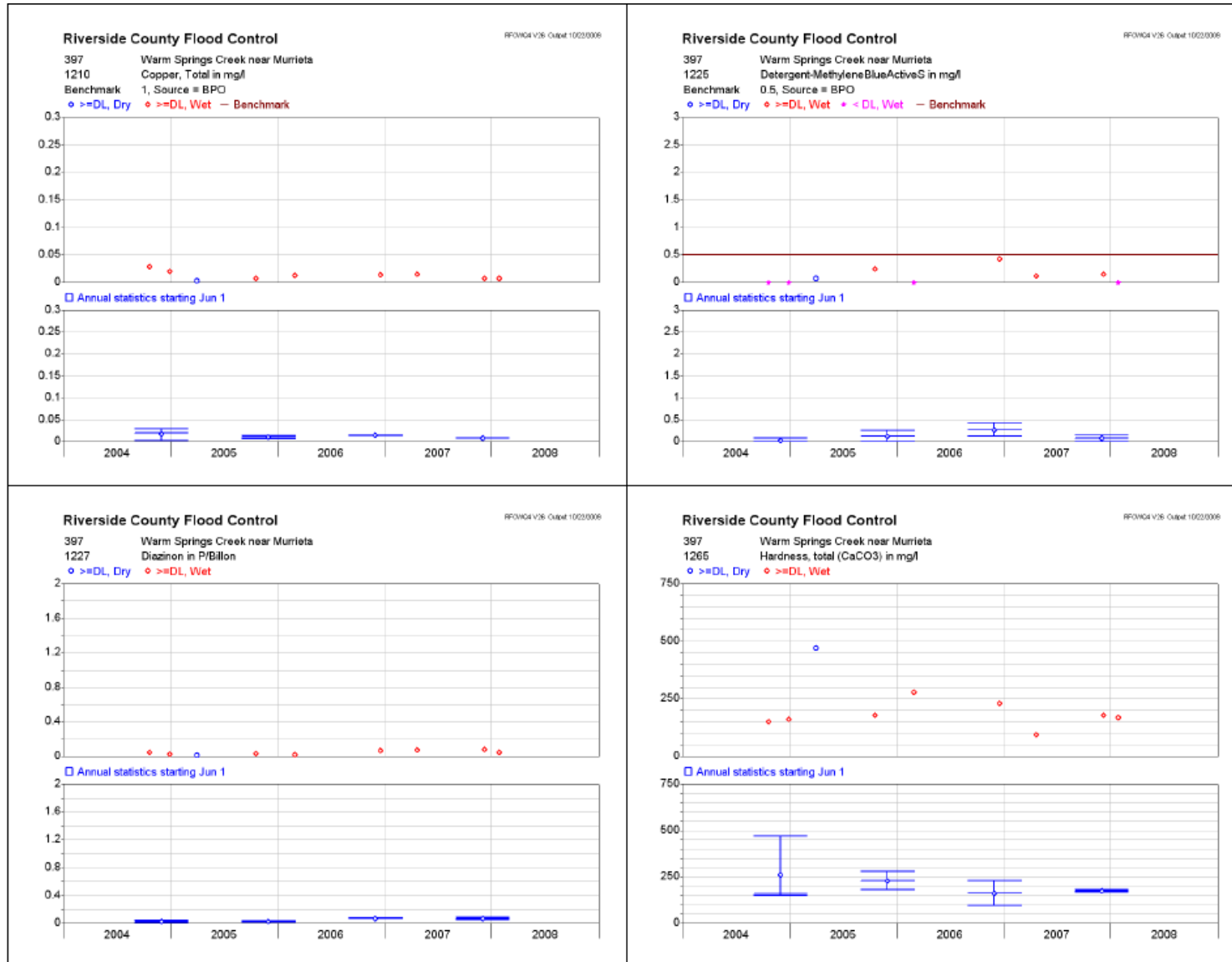




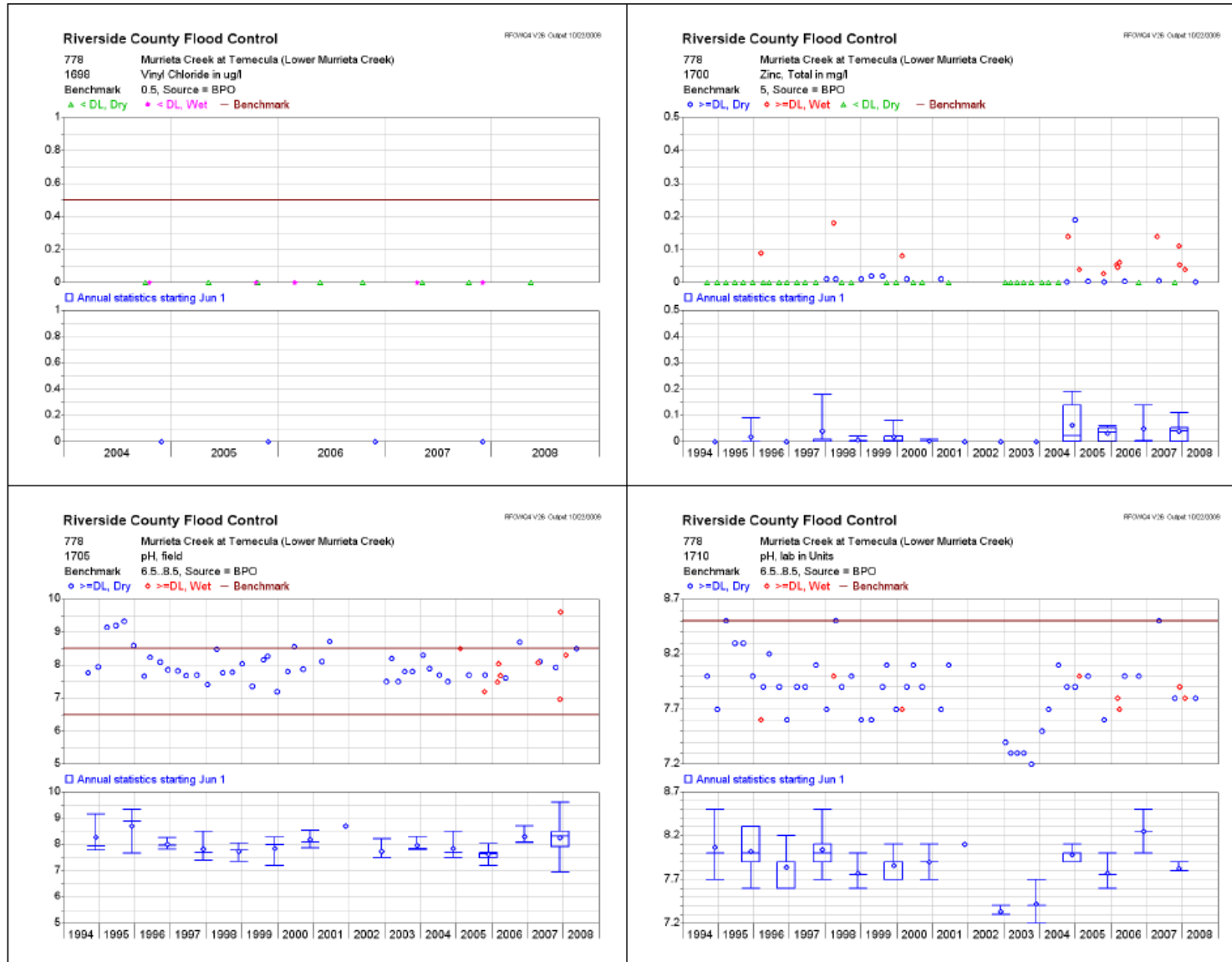
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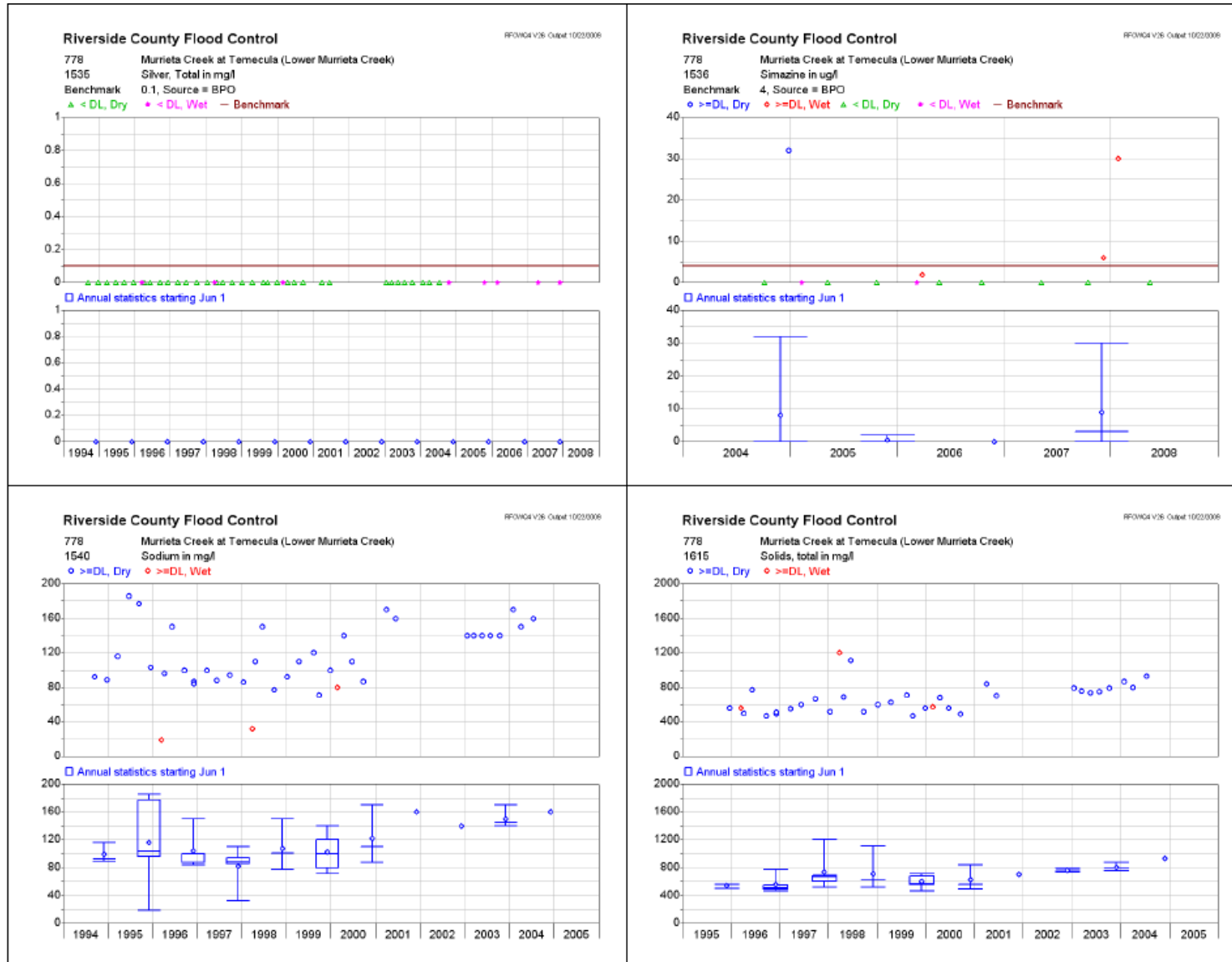
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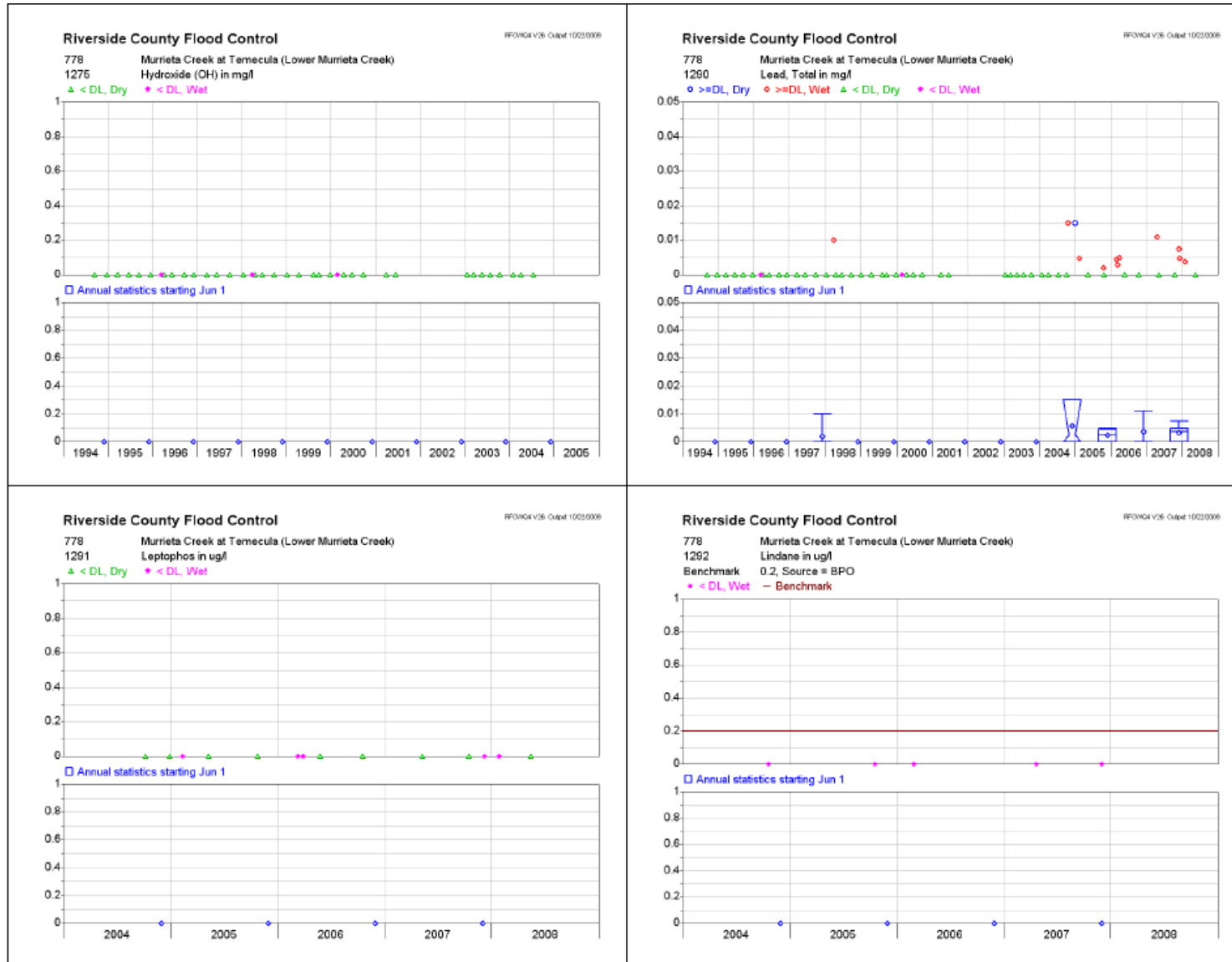
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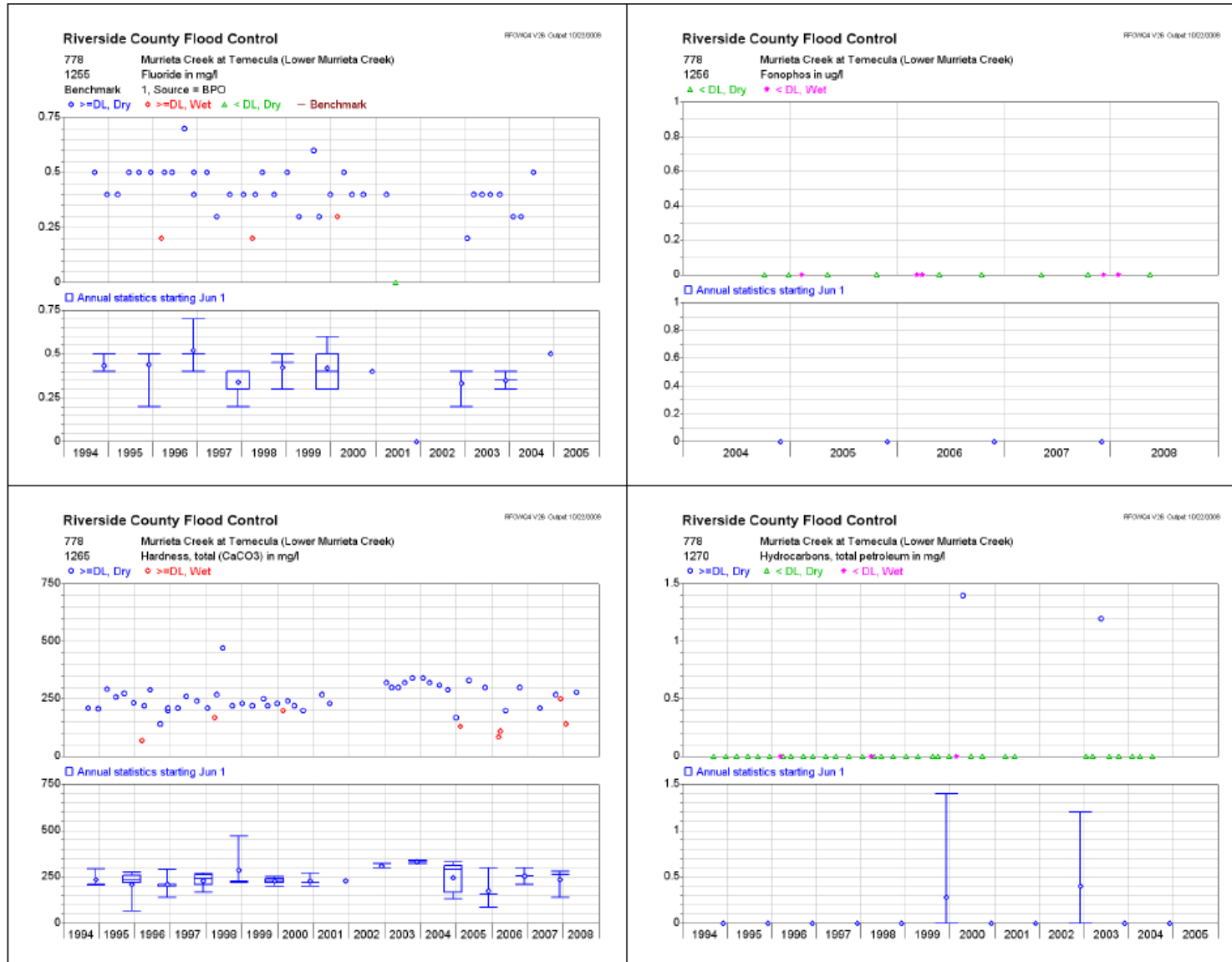
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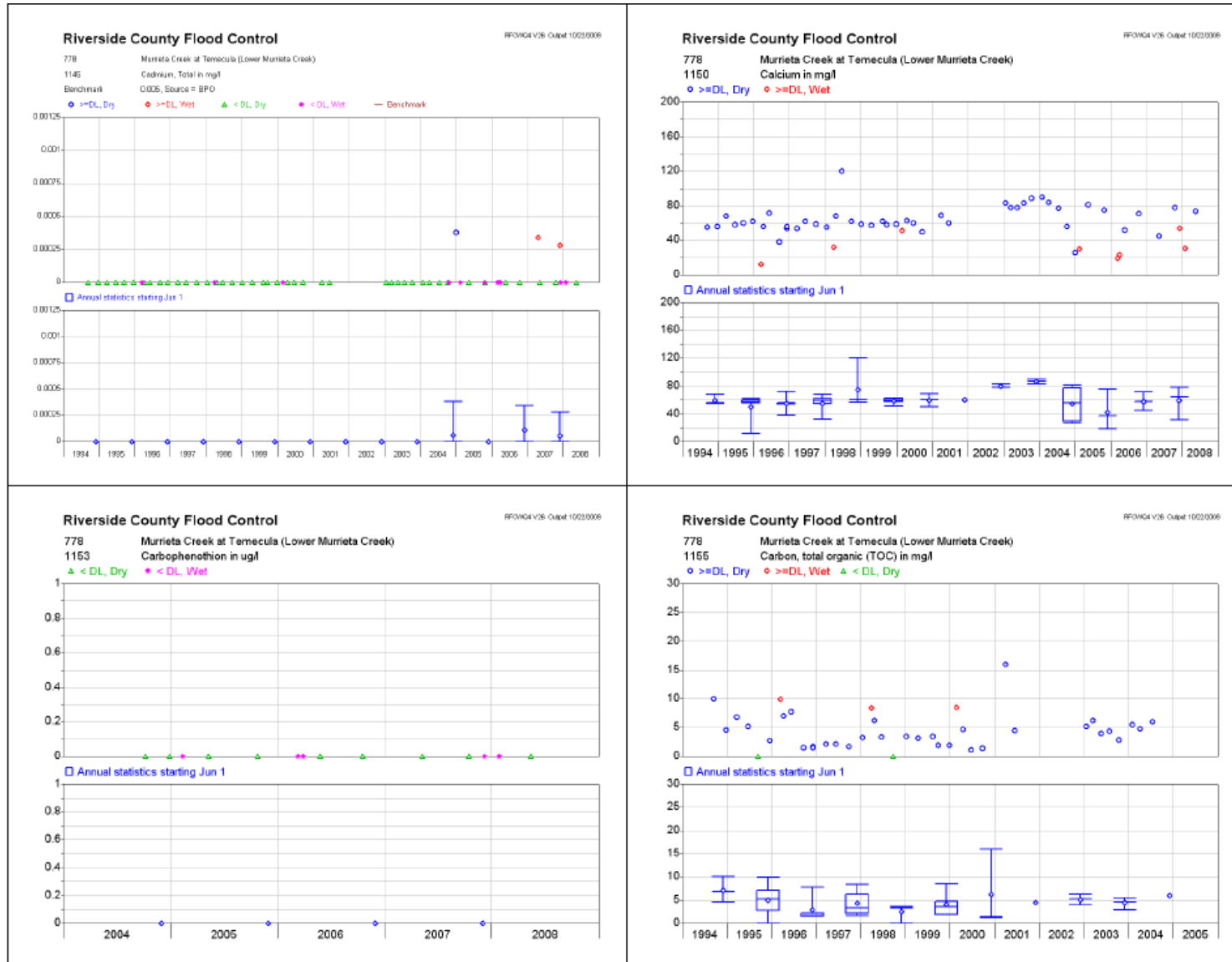
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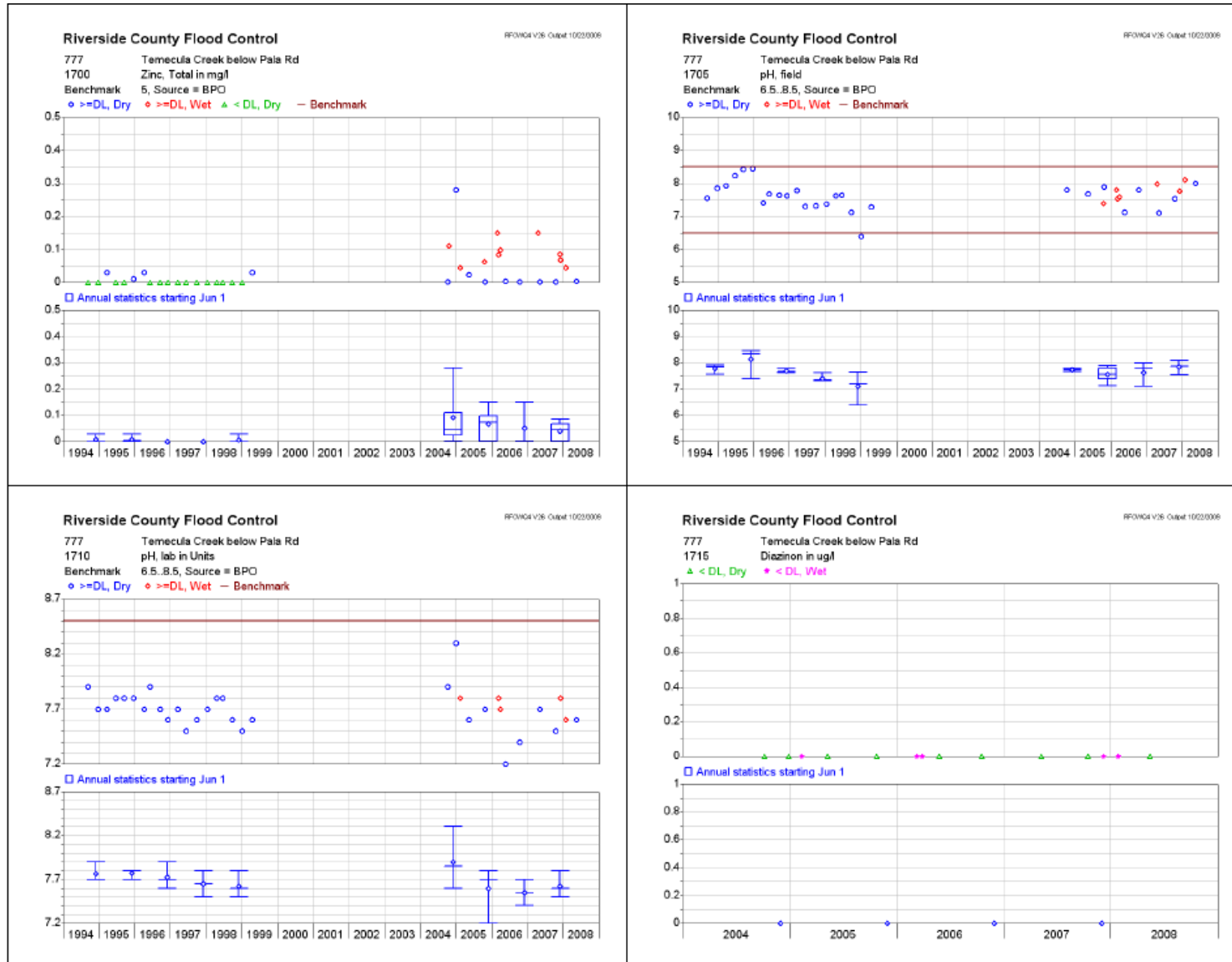
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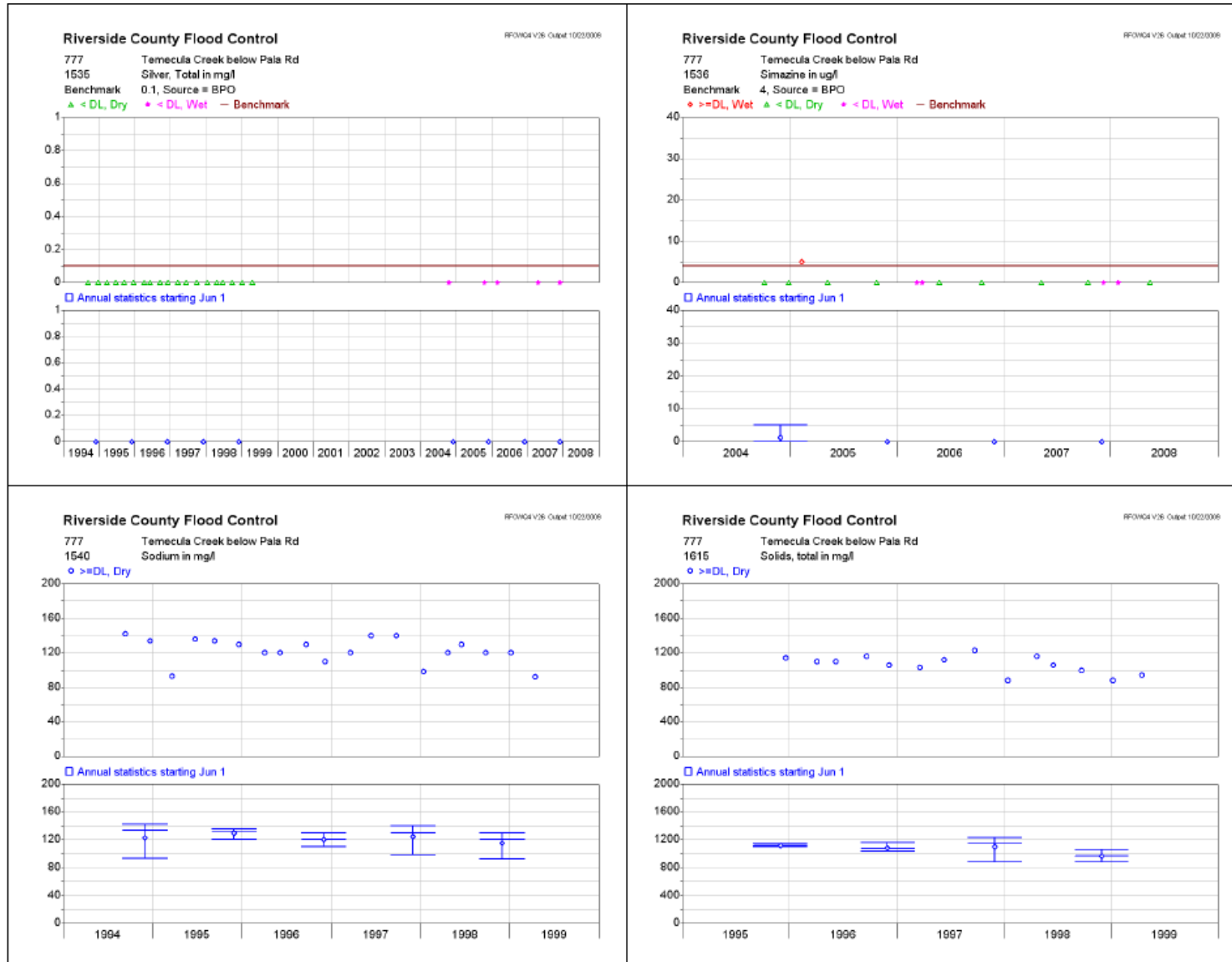
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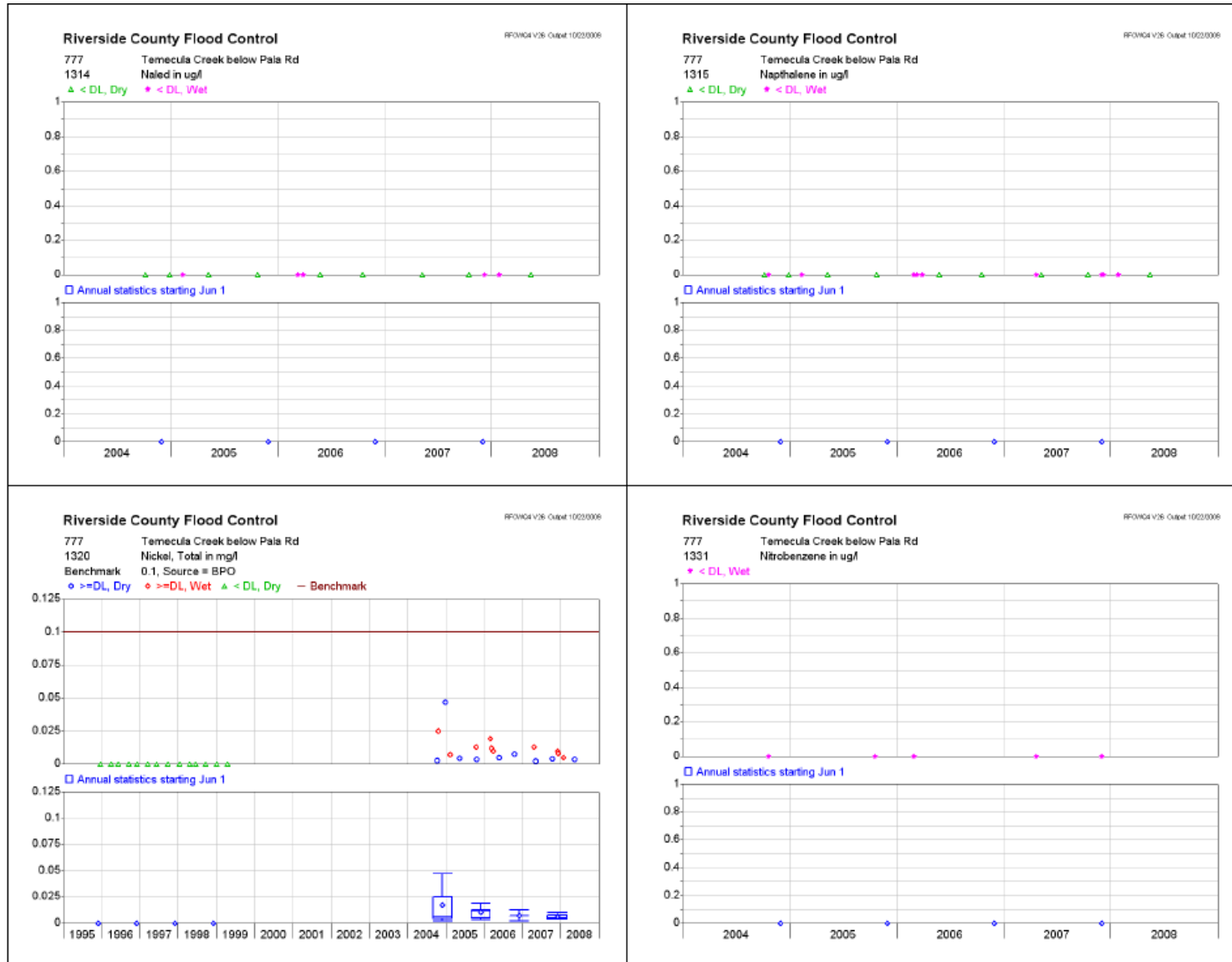
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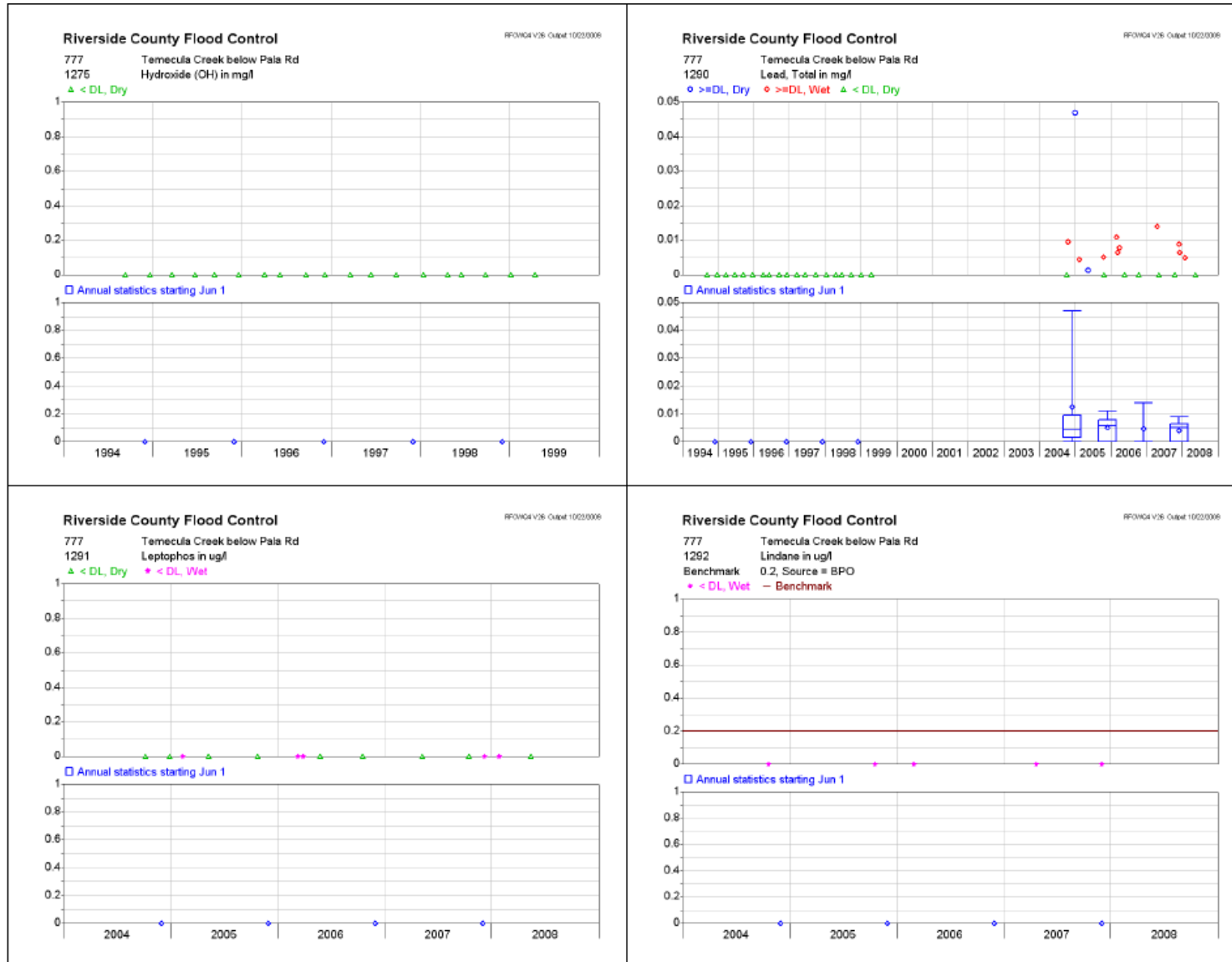
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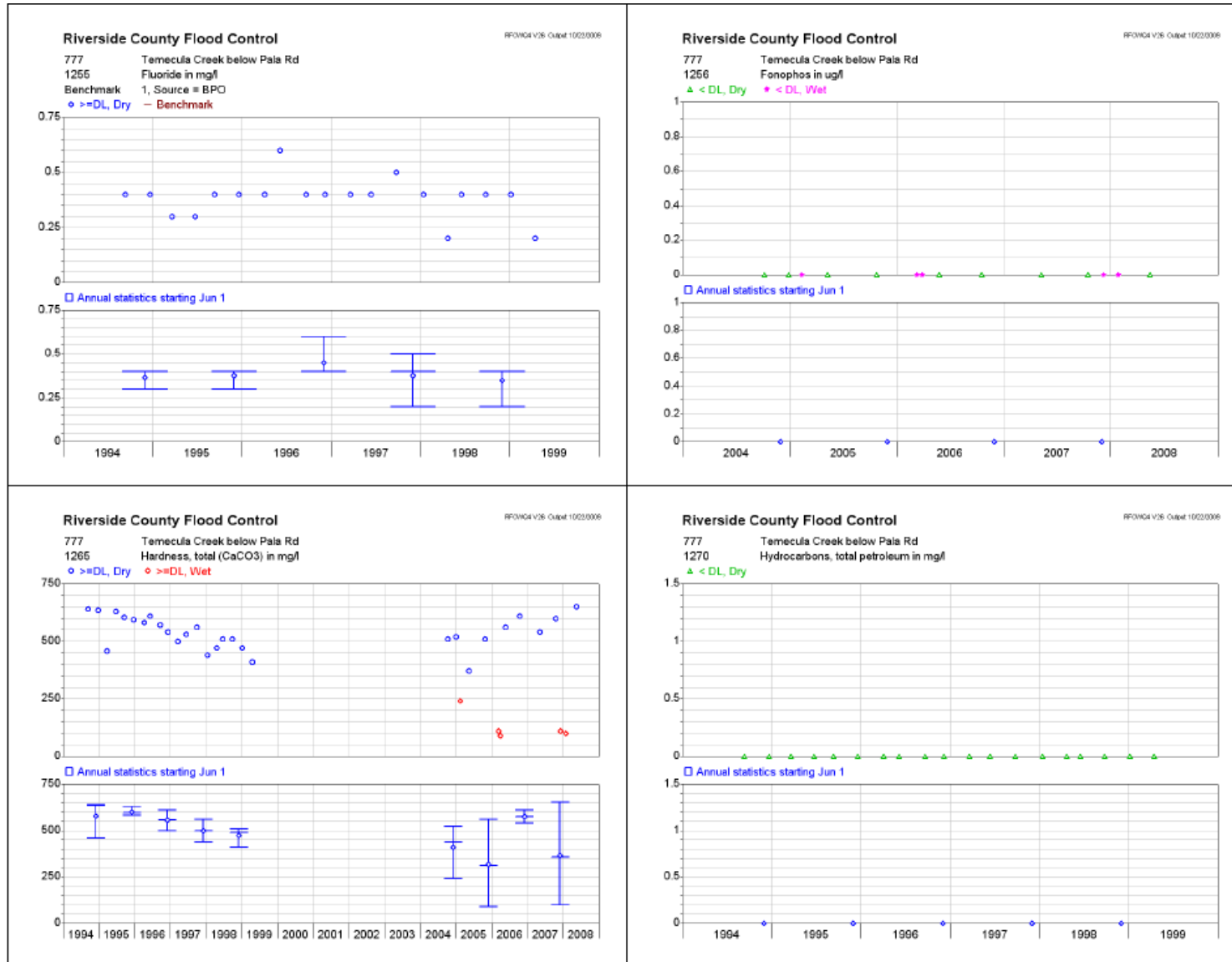
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